Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Agenda

Assembly

Brent Johnson, President
Tyson Cox, Vice President
Jesse Bjorkman
Lane Chesley
Richard Derkevorkian
Cindy Ecklund
Bill Elam
Brent Hibbert
Mike Tupper

Tuesday, December 13, 2022 **6:00 PM** **Betty J. Glick Assembly Chambers**

Meeting ID: 884 7373 9641 Passcode: 671108

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

Any invocation that may be offered at the beginning of the assembly meeting shall be a voluntary offering of a private person, to and for the benefit of the assembly. No member of the community is required to attend or participate in the invocation.

[Clerk's Note: Invocation will be offered by Joshua Niemuth.]

ROLL CALL

COMMITTEE REPORTS

APPROVAL OF AGENDA AND CONSENT AGENDA

(All items listed with an asterisk (*) are considered to be routine and non-controversial by the Assembly and will be approved by one motion. Public testimony will be taken. There will be no separate discussion of these items unless an Assembly Member so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.)

ACTION ITEMS CURRENTLY ON CONSENT AGENDA:

KPB 4767: Petition to Vacate in Questa Woods Subdivision
KPB 4768: Petition to Vacate a Portion of Lupine Avenue
KPB 4769: Appointments to the Board of Equalization
KPB 4770: Appoinment to the Anchor Point APC
KPB 4772: Appointment to the RSAC
KPB 4771: Appointments to Service Area Boards
KPB 4773: November 15, 2022 Regular Meeting Minutes
Resolution 2022-059: Resignation of Jesse Bjorkman
Resolution 2022-060: Upper Cook Inlet East Side Set Net Fishery
Ordinance 2022-19-34: Second Amendment COVID-19 Program
Ordinance 2022-19-35: Community Assistant Programs
Ordinance 2022-19-36:City of Homer Siren Replacement
Ordinance 2022-19-37: Repairs to the River Center Building
Ordinance 2022-19-38: Additional Costs of Insurance Claims
Ordinance 2022-43: Subsurface Oil and Gas Lease
Ordinance 2022-44: Amending KPB 4.10.060 and KPB 4.10.110 Elections
Ordinance 2022-45: Ballot Tabulator Testing Before a Run-Off Election
Ordinance 2022-46: Amending Nikiski APC Boundaries
Ordinance 2022-47: Amending KPB 5.04.095(B) and KPB 5.20.030 River Center Funds

ACTION ITEMS ELIGIBLE TO BE ADDED TO THE CONSENT AGENDA:

Ordinance 2022-19-26: “Year Two” Opioid Settlement Funds
Ordinance 2022-19-27: Fish Passage Project
Ordinance 2022-19-28: Hydrocarbon and Accelerant Detectors
Ordinance 2022-19-29: Projects in Lost Creek and Sawmill Creek
Ordinance 2022-19-30: Land Management Operations for 2023
Ordinance 2022-19-31: Bond Funded School Projects
Ordinance 2022-19-32: South Peninsula Hospital Renovation Project
Ordinance 2022-19-33: Deputy Clerk’s Position

APPROVAL OF MINUTES

***1.** KPB-4773 November 15, 2022 Regular Assembly Meeting Minutes

Attachments: November 15, 2022 Minutes

PRESENTATIONS WITH PRIOR NOTICE

(20 minutes total)

1. KPB-4774 Kenai Peninsula Borough School District Quarterly Report; Clayton Holland, Superintendant (10 minutes)

Attachments: LAYDOWN KPBSD Quarterly Presentation

2. KPB-4775 Peninsula Community Health Services Local Mental Health Update; Jed Rigby, Director of Behavioral Health (10 minutes)

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

(3 minutes per speaker; 20 minutes aggregate)

PUBLIC HEARINGS ON ORDINANCES

(Testimony limited to 3 minutes per speaker)

Ordinances referred to Finance Committee

1. 2022-19-26 An Ordinance Accepting and Appropriating the "Year Two" Opioid Settlement Funds Distributed Through the State of Alaska (Mayor)

Attachments: Ordinance 2022-19-26

Memo

Reference Copy O2021-19-50

2. 2022-19-27 An Ordinance Accepting and Appropriating Grant Funds of $150,000 for the Kenai Peninsula Borough Fish Passage Project, a Partnership between the Kenai Peninsula Borough and the U.S. Fish & Wildlife Service (Mayor)

Attachments: Ordinance 2022-19-27

Memo

3. 2022-19-28 An Ordinance Accepting and Appropriating a Grant from FM Global for the Purchase of Two Hydrocarbon and Accelerant Detectors for Western Emergency Service Area (Mayor)

Attachments: Ordinance 2022-19-28

Memo

4. 2022-19-29 An Ordinance Appropriating Supplemental Funding of $216,165 from the Seward Bear Creek Flood Service Area Fund to Replenish the Emerging Situations Budget and to Fund Site Maintenance Projects in Lost Creek and Sawmill Creek (Mayor)

Attachments: Ordinance 2022-19-29

Memo

Reference Copy O2022-19

5. 2022-19-30 An Ordinance Appropriating Supplemental Funds to Land Management Operations for the Remainder of Fiscal Year 2023 (Mayor)

Attachments: Ordinance 2022-19-30
Memo

6. 2022-19-31 An Ordinance Appropriating $1,625,000 from the General Fund to Provide Interim Funding for Preliminary Design and Development of the Bond Funded School Projects Authorized by Ballot Proposition 2 at the October 2022 Election (Mayor)

Attachments: Ordinance 2022-19-31
Memo
Reference Copy O2022-20

7. 2022-19-32 An Ordinance Deobligating Previously Appropriated Project Funds of $1,522,530 and Appropriating $659,783 of those Funds for the Expanded Scope of South Peninsula Hospital Nuclear Medicine/Pharmacy/Infusion Renovation Project (Mayor)

Attachments: Ordinance 2022-19-32
Memo
Service Area Board Recommendation

8. 2022-19-33 An Ordinance Amending the Deputy Borough Clerk Job Description, Approving a Full-Time Records Manager Position and Appropriating Necessary Funds for the Position (Johnson, Cox)

Attachments: Ordinance 2022-19-33
Memo
FY23 Salary Schedule
Deputy Borough Clerk Job Description
Records Manager Job Description
Reference Copy R88-088
Reference Copy 98-004

Ordinances referred to Lands Committee

9. 2022-36 An Ordinance Amending KPB Chapter 21.25 and KPB Chapter 21.29 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

Attachments:
Ordinance 2022-36
Derkevorkian Amendments #1-#14
Sectional Analysis with Potential Amendments - Planning Department
Tupper Amendments #1-6
Administrative Amendments #1-#9
Johnson Amendments #1-#6
Memo
Final Material Site Sectional Analysis
Material Site Subcommittee Presentation
Review Notes by Charley Palmer
Takings Overview presentation
Public Comments
102522 Public Comments
111522 Public Comment
121322 Public Comments
Reference Copy R2018-004 SUB
Reference Copy O2019-30
Reference Copy O2021-41
Reference Copy O2021-41 SUB

NEW BUSINESS

1. Resolutions

Resolutions referred to Policies and Procedures Committee

***a.** 2022-059 A Resolution Accepting the Resignation of Assembly Member Jesse Bjorkman and Declaring a Vacancy on the Assembly (Johnson, Cox)

Attachments:
Resolution 2022-059
Memo
Assembly Resignation Letter

Resolutions referred to Legislative Committee

***b.** 2022-060 A Resolution Declaring a Local Economic Disaster For 2021 and 2022 and Requesting the Governor of the State of Alaska Declare an Economic Disaster for 2021 and 2022 For The Upper Cook Inlet East Side Set Net Fishery And Supporting A Recovery Plan (Johnson)

Attachments: Resolution 2022-060
Memo
Alaska State Legislature Letter of Support

2. Ordinances for Introduction

Ordinances for Introduction and referred to Finance Committee

***a.** 2022-19-34 An Ordinance Approving the Second Amendment to the Spending Plan for the COVID-19 Community Funding Program to Purchase Portable Training Tables, Chairs, Response Equipment, Response Training and Electronic Signage to Support Future Emergency Response Objectives and Appropriating Service Area Funds to Support Local Portion of Signage (Mayor) (Hearing on 01/03/23)

Attachments: Ordinance 2022-19-34
Memo
Budget
Reference Copy R2021-070

***b.** 2022-19-35 An Ordinance Accepting and Appropriating Funding from the State of Alaska in the Amount of $426,303 for Fiscal Year 2023, Allocating a One-Time Bonus Amount Based on A Per-Capita Calculation in the Amount of $308,883.91, and Approving Projects to be Completed for Community Purposes Under the State's 2022/2023 Community Assistance Programs (Mayor) (Hearing on 01/03/23)

Attachments: Ordinance 2022-19-35
Memo
CAP Bonus Funds Calculation
Reference Copy R2022-017
Reference Copy R2013-022

***c.** 2022-19-36 An Ordinance Accepting and Appropriating $61,000 from the State of Alaska Department of Military and Veteran Affairs, Division of Homeland Security and Emergency Management for the Siren Warning System Replacement Project within the City of Homer (Mayor) (Hearing on 01/03/23)

Attachments: Ordinance 2022-19-36

Memo

NOAA Award Letter

***d.** 2022-19-37 An Ordinance Appropriating $13,078.54 from the River Center Building Maintenance Reserve Fund and $6,625.18 from the 911 Communications Fund for Unexpected Repairs to the River Center Building (Mayor) (Hearing on 01/03/23)

Attachments: Ordinance 2022-19-37

Memo

***e.** 2022-19-38 An Ordinance Appropriating $475,250 from the Insurance and Litigation Fund for Additional Costs of Insurance Claims Incurred in FY2023 (Mayor) (Hearing on 01/03/23)

Attachments: Ordinance 2022-19-38

Memo

Ordinances for Introduction and referred to the Lands Committee

***f.** 2022-43 An Ordinance Authorizing a Subsurface Oil and Gas Lease to Hilcorp Alaska, LLC, in the Ninilchik Unit (Mayor) (Hearing on 01/03/23)

Attachments: Ordinance 2022-43

Memo

Oil and Gas Lease Paid-Up

Reference O2015-19-05

Ordinances for Introduction and referred to the Policies and Procedures Committee

***g.** 2022-44 An Ordinance Amending KPB 4.10.060 and 4.10.110 to Eliminate the Requirement that the Informational Election Brochure be Mailed to Every Borough Boxholder and to Eliminate the Requirement of the Borough Clerk to Seek Authorship Advocating Approval and Rejection of Ballot Propositions (Johnson, Cox) (Hearing on 01/17/23)

Attachments: Ordinance 2022-44

Memo

***h.** 2022-45 An Ordinance Amending KPB 4.60.030 Relating to Ballot Tabulator Testing Before a Run-Off Election (Johnson, Cox) (Hearing on 01/17/23)

Attachments: Ordinance 2022-45

Memo

***i.** 2022-46 An Ordinance Amending KPB 21.02.230 to Modify the Boundaries of the Nikiski Advisory Planning Commission (Johnson, Ecklund) (Hearing on 01/17/23)

Attachments: Ordinance 2022-46

Memo

Reference Copy O2022-41

***j.** 2022-47 An Ordinance Amending KPB 5.04.095(B) to Remove the River Center as a Listed General Fund Department and KPB 5.20.030 to Remove the River Center Fund from the Special Revenue Fund List (Mayor) (Hearing on 01/17/23)

Attachments: Ordinance 2022-47

Memo

3. Other

Other items referred to Lands Committee

***a.** KPB-4767 Petition to Vacate a 33' x 820' Public Access Easement in Bear Creek area adjacent to Tract H of Questa Woods Subdivision Southern Addition, KPB File 2022-156V

Attachments: Questa Wood Vacation Petition

Assembly Memo

***b.** KPB-4768 Petition to Vacate a 17' width and 373' portion of the Lupine Avenue and a Portion of the Cul-de-Sac bulb in the Nikiski Area, KPB File 2022-156V

Attachments: Lupine Vacation Petition

Assembly Memo

Other items referred to Policies and Procedures Committee

***c.** KPB-4769 Confirming Appointments to the Board of Equalization (Mayor)

Dale Bagley Seat B Term Expires 12/31/2025
Brent Johnson Seat E Term Expires 12/31/2025

Attachments: Board of Equalization Appointments

***d.** KPB-4770 Confirming an Appointment to the Anchor Point Advisory Planning Commission (Mayor)

Joey Chamberlin Seat D Term to Expire 09/30/2025

Attachments: Anchor Point Advisory Planning Commission Appointment

***e.** KPB-4772 Confirming an Appointment to the Resilience and Security Advisory Commission (Mayor)

Willow King At-Large Seat Term to Expire 09/30/2023

Attachments: Resilience and Security Advisory Commission Appointment

***f.** KPB-4771 Confirming Appointments to Service Area Boards (Mayor)

East Peninsula Highway Emergency Service Area Board
Clay Adam Seat B Term to Expire 10/2025

Kachemak Emergency Service Area
Randall Blad Seat D Term to Expire 10/2025

North Peninsula Recreation Service Area Board
Erin Bellotte Seat D Term to Expire 10/2024

Attachments: Service Area Board Appointments

MAYOR'S REPORT

KPB-4797 Mayor's Report Cover Memo

Attachments: Mayor's Report Cover Memo

1. Assembly Requests/Responses - None.

2. Agreements and Contracts

a. KPB-4798 Authorization to Award a Contract for ITB23-011 Sport Lake Rd/Hakala Dr/Cotman Ct Gravel CIP

Attachments: Authorization to Award ITB23-011

b. KPB-4799 Authorization to Award a Contract for ITB23-025 Central Peninsula Landfill Brush Burning

Attachments: Authorization to Award ITB23-025

c. KPB-4800 Authorization to Award a Contract for RFP23-004 Gravel Road Design FY23

Attachments: Authorization to Award RFP23-004

d. KPB-4801 Authorization to Award a Contract for ITB23-013 Kenai, Nikiski, Sterling Transfer Facilities Operation and Maintenance 2023

Attachments: Authorization to Award ITB23-013

e. KPB-4802 Authorization to Award a Contract for ITB23-012 Seward Transfer Facilities Operation and Maintenance 2023

Attachments: Auth to Award ITB23-012

3. Other

a. KPB-4803 Tax Adjustment Request Approval

Attachments: Tax Adjustment Request Approval

b. KPB-4804 Investment Report Quarter Ended 09/30/22

Attachments: Investment Report Quarter Ended 09/30/22

c. KPB-4805 Budget Revisions - October 2022

Attachments: Budget Revisions October 2022

d. KPB-4806 Revenue-Expenditure Report - October 2022

Attachments: Revenue-Expenditure Report October 2022

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

ASSEMBLY COMMENTS

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

Next meeting Information

1. January 3, 2023 Material Subcommittee Meeting
   TBD Betty J. Glick Assembly Chambers
   Borough Administration Building
   Remote participation available through Zoom
   Meeting ID: 884 7373 9641 Passcode: 671108

2. January 3, 2023 Regular Assembly Meeting
   6:00 PM Betty J. Glick Assembly Chambers
   Borough Administration Building
   Remote participation available through Zoom
   Meeting ID: 884 7373 9641 Passcode: 671108

ADJOURNMENT

This meeting will be broadcast on KDLL-FM 91.9 (Central Peninsula), KBBI-AM 890 (South Peninsula), K201AO(KSKA)-FM 88.1 (East Peninsula).

The meeting will be held through Zoom, the Meeting ID: 884 7373 9641 Passcode: 671108 and in-person from the Betty J. Glick Assembly Chambers, Borough Administration Building, Soldotna, Alaska. To attend the Zoom meeting by telephone call toll free 1-888-788-0099 or 1-877-853-5247 and enter the Meeting ID: 884 7373 9641 Passcode: 671108. Detailed instructions will be posted on at the Kenai Peninsula Borough's main page at www.kpb.us: "Meeting and Public Notices" "Assembly Meeting Calendar".

For further information, please call the Clerk's Office at 714-2160 or toll free within the Borough at 1-800-478-4441, Ext. 2160. Visit our website at www.kpb.us for copies of the agenda, meeting minutes, ordinances and resolutions.

Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Minutes - Draft

Assembly

Brent Johnson, President
Tyson Cox, Vice President
Jesse Bjorkman
Lane Chesley
Richard Derkevorkian
Cindy Ecklund
Bill Elam
Brent Hibbert
Mike Tupper

Tuesday, November 15, 2022 **6:00 PM** **Betty J. Glick Assembly Chambers**

Meeting ID: 884 7373 9641 Passcode: 671108

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

[Clerk's Note: The invocation was given by Dr. Edward Goans.]

ROLL CALL

Present: 9 - Jesse Bjorkman, Tyson Cox, Brent Hibbert, Brent Johnson, Richard Derkevorkian, Bill Elam, Lane Chesley, Cindy Ecklund, and Mike Tupper

Also present were:

Max Best, Chief of Staff
Sean Kelley, Borough Attorney
Brandi Harbaugh, Finance Director
Johni Blankenship, Borough Clerk
Michele Turner, Deputy Borough Clerk

COMMITTEE REPORTS

APPROVAL OF AGENDA AND CONSENT AGENDA

Copies have been made available to the public, Borough Clerk Johni Blankenship noted by title only the resolutions and ordinances on the consent agenda.

KPB-4705 October 25, 2022 Regular Assembly Meeting Minutes

approved.

The following public hearing item met the required conditions of KPB 22.40.110 and were added to the consent agenda:

2022-19-25 An Ordinance Appropriating Funds to the Legal Department for Litigation Fees and Costs Related to an Oil and Gas Property Tax Appeal (Mayor) (Hearing on 11/15/22)

This Budget Ordinance was enacted.

New Business

2022-056 A Resolution Authorizing the Acquisition by Donation of Three Lots of Land Located in the Seward Area on Behalf of the Seward Bear Creek Flood Service Area (Mayor)

This Resolution was adopted.

2022-058 A Resolution Supporting the Transportation Priorities to be Considered for Grant Funding for Submission to the State of Alaska Department of Transportation and Public Facilities (Mayor)

[Clerk's Note: Assembly Member Hibbert declared a conflict of interest as he is the owner of Alaska Cab Company which provides transportation for ILC grant recipient. Mr. Hibbert abstained from the discussion and vote on Resolution 2022-058.]

This Resolution was adopted.

Yes: 8 - Derkevorkian, Elam, Chesley, Ecklund, Tupper, Cox, Johnson, and Bjorkman

Abstain: 1 - Hibbert

2022-19-26 An Ordinance Accepting and Appropriating the "Year Two" Opioid Settlement Funds Distributed Through the State of Alaska (Mayor)

This Budget Ordinance was introduced and set for public hearing.

2022-19-27 An Ordinance Accepting and Appropriating Grant Funds of $150,000 for the Kenai Peninsula Borough Fish Passage Project, a Partnership between the Kenai Peninsula Borough and the U.S. Fish & Wildlife Service (Mayor)

This Budget Ordinance was introduced and set for public hearing.

2022-19-28 An Ordinance Accepting and Appropriating a Grant from FM Global for the Purchase of Two Hydrocarbon and Accelerant Detectors for

Western Emergency Service Area (Mayor)

This Budget Ordinance was introduced and set for public hearing.

2022-19-29 An Ordinance Appropriating Supplemental Funding of $216,165 from the Seward Bear Creek Flood Service Area Fund to Replenish the Emerging Situations Budget and to Fund Site Maintenance Projects in Lost Creek and Sawmill Creek (Mayor)

This Budget Ordinance was introduced and set for public hearing.

2022-19-30 An Ordinance Appropriating Supplemental Funds to Land Management Operations for the Remainder of Fiscal Year 2023 (Mayor)

This Budget Ordinance was introduced and set for public hearing.

2022-19-31 An Ordinance Appropriating $1,625,000 from the General Fund to Provide Interim Funding for Preliminary Design and Development of the Bond Funded School Projects Authorized by Ballot Proposition 2 at the October 2022 Election (Mayor)

This Budget Ordinance was introduced and set for public hearing.

2022-19-32 An Ordinance Deobligating Previously Appropriated Project Funds of $1,522,530 and Appropriating $659,783 of those Funds for the Expanded Scope of South Peninsula Hospital Nuclear Medicine/Pharmacy/Infusion Renovation Project (Mayor)

This Budget Ordinance was introduced and set for public hearing.

2022-19-33 An Ordinance Amending the Deputy Borough Clerk Job Description, Approving a Full-Time Records Manager Position and Appropriating Necessary Funds for the Position (Johnson, Cox)

This Budget Ordinance was introduced and set for public hearing.

KPB-4716 Confirming Appointments to Service Area Boards (Mayor)

East Peninsula Highway Emergency Service Board
Sean P. Carrington, Seat C, Term Expires 10/2025

Kachemak Emergency Service Area Board
Ralph Crane, Seat E,Term Expires 10/2025

Seldovia Recreational Service Area Board
Karen R. Latimer, Seat A,Term Expires 10/2025

approved.

KPB-4719 Confirming an Appointment to the Resilience and Security Advisory Commission (Mayor)

Central Peninsula Seat
Jeremy Spring Flynn, Term Expires 09/30/2025

approved.

KPB-4717 Approval of the 2023 Assembly Meeting Schedule (Johnson)

approved.

KPB-4747 Confirming Appointments to the Kenai Peninsula Borough Advisory Planning Commission (Mayor)

Anchor Point Advisory Planning Commission
Angela Roland, Seat G, Term Expires09/30/2024

Funny River Advisory Planning Commission
Michael Masters, Seat G, Term Expires 09/30/2025

Nikiski Advisory Planning Commission
Tom Coursen, Seat A, Term Expires 09/30/2023
Patricia Williams, Seat B, Term Expires09/30/2023
Karen S. McGahan, Seat C, Term Expires 09/30/2024
Lenora Niesen, Seat D, Term Expires 09/30/2024
Kelly Brewer, Seat E, Term Expires 09/30/2025
Michael A. Peek, Seat F, Term Expires 09/30/2025
Jason Ross, Seat G, Term Expires 09/30/2025

approved.

Approval of the Agenda and Consent Agenda

President Johnson called for public comment with none being offered.

The motion to approve the agenda and consent agenda as amended carried by the following vote:

Yes: 9 - Hibbert, Derkevorkian, Elam, Chesley, Ecklund, Tupper, Cox, Johnson, and Bjorkman

COMMENDING RESOLUTIONS AND PROCLAMATIONS

KPB-4713 Mayor's Proclamation Declaring November 22, 2022 as "Family Caregiver" Month

[Clerk's Note: Chief of Staff Max Best read the proclamation.]

PRESENTATIONS WITH PRIOR NOTICE

KPB-4714 North Road Task Force Presentation: Dil Uhlin, Roads Director (10 minutes)

[Clerk's Note: Dil Uhlin, Roads Director gave the presentation to the Assembly.]

KPB-4715 Homer Trail Alliance: Billy Day and Peggy Paver (10 minutes)

[Clerk's Note: Debbie Oudiz, Homer Trail Alliance Board Member gave the presentation to the Assembly.]

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

President Johnson called for public comment.

The following people addressed the assembly regarding grand jury investigations:

David Haeg
Linn Whitmore, Anchor Point
Jacob Argueta, Homer

Coowe Walker, Homer addressed the assembly regarding ground water and the salmon habitat.

There being no one else who wished to speak the public comment period was closed.

PUBLIC HEARINGS ON ORDINANCES

2022-42 An Ordinance Approving the 2023 Asset Allocation for the Land Trust Investment Fund Investments and Amending KPB Code 5.10.200(B) to Update and Add New Subsections Under Authorized Investments (Mayor) (Hearing on 11/15/22)

Hibbert moved to enact Ordinance 2022-42.

President Johnson called for public comment with none being offered.

The motion to enact Ordinance 2022-43 carried by the following vote:

Yes: 9 - Hibbert, Derkevorkian, Elam, Chesley, Ecklund, Tupper, Cox, Johnson, and Bjorkman

NEW BUSINESS

1. Resolutions

2022-057 A Resolution Supporting Privately Owned Boat Take-Outs on the

Lower Kasilof River (Johnson)

Ecklund moved to adopt Resolution 2022-057.

President Johnson called for public comment.

The following people addressed the assembly regarding Resolution 2022-057:

Steve Miedzwiadok, Williamson Way
Reubin Payne
Thomas Burck
Carol Roush
Monte Roberts
Rick Vann
Connie Vann
Ben Eveland, Kasilof
Jason Ross, Nikiski
Liz Burck
David Martin, Clam Gulch
Mark Rowley
Jane Eveland
Dyer Vandevere
Dan Smith, Tori Way
Ian McDonald
John Hedges, Soldotna
Joan Corr
Matt Bowser

There being no one else who wished to speak, the public comment period was closed.

Assembly Member Chesley spoke in support of Resolution 2022-057.

President Johnson passed the gavel to Vice President Cox and spoke in support of Resolution 2022-057. Vice President Cox returned the gavel to President Johnson.

Assembly Member Bjorkman, Elam, Hibbert and Cox spoke in opposition to Resolution 2022-057.

The motion to adopt Resolution 2022-057 failed by the following vote:

Yes: 3 - Derkevorkian, Chesley, and Johnson

No: 6 - Hibbert, Elam, Ecklund, Tupper, Cox, and Bjorkman

MAYOR'S REPORT

1. Assembly Requests/Responses - None.

2. Agreements and Contracts

a. KPB-4749 Funny River Fire Station Compressor

b. KPB-4750 Change Order for Hope Site Environmental Clean Up

c. KPB-4751 Nikiski High School lockers, Co-op Purchase Authorization

d. KPB-4752 Purchase of a Type 1 Ambulance for Kachemak Emergency Service Area: Under the Houston Galveston Area Council (H-GAC) Cooperative Purchasing

e. KPB-4753 Northern Support Services "Carehawk" Sole Source Waiver

f. KPB-4754 KPB Cyber Security Operations Center Contract Under NASPO Contract #NVP-2018-CLOUD-0002

g. KPB-4755 Totem Equipment and Supply SANY215 Sole Source Waiver

h. KPB-4756 Authorization to Award a Contract for ITB23-013 Kenai, Nikiski, Sterling Transfer Facilities Operation and Maintenance 2023

i. KPB-4757 Authorization to Award a Contract for ITB23-012 Seward Transfer Facilities Operations and Maintenance 2023

j. KPB-4758 Transfer Additional Road Funds to Sport Lake, Hakala, Cotman Dr.

3. Other

a. KPB-4759 Kachemak City All Hazards Mitigation Plan 2022 Update

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

President Johnson called for public comment.

Ed Martin, Jr. addressed the assembly regarding suspending the rules, fulfilling public records requests and grand jury investigations.

The following people addressed the assembly regarding grand jury investigations:

Waynette Coleman
Queen Parker, Sterling

Garret Dennis
David Haeg
Joan Corr
Holly Sheldon, Talkeetna

There being no one else who wished to speak, the public comment period was closed.

ASSEMBLY COMMENTS

Assembly Member Elam thanked everyone for attending and providing public comments. He thanked Senator Micciche and Councilwoman Hutchings for attending. Mr. Elam thanked Clerk Blankenship for her service at the borough, stating it was great to work with her. He congratulated Mr. Bjorkman on his potential win for the Alaska Senate seat.

Assembly Member Hibbert thanked everyone for attending. He stated Clerk Blankenship and Deputy Clerk Turner rock, stating they are the ones who keep the borough running and if they went away, we would not get anything done. He wished everyone a good evening.

Assembly Member Bjorkman thanked everyone for attending and participating in the public process. He thanked all the election officials for working the general election on November 8, 2022. Mr. Bjorkman stated election results were uploaded a lot faster for the state election as the state uploaded results by cellular transmission. He encouraged the assembly to take a closer look at that matter to help borough elections run more smoothly, stating he would definitely support that effort. He wished everyone a good evening and safe travels.

Assembly Member Chesley thanked everyone for participating in the long meeting day. He thanked the clerks and the Clerk's Office staff for their hard work. He stated transitions always bring exciting times and we were looking forward to some exciting times ahead.

Assembly Member Ecklund congratulated Seward Girls Cross Country champions; Seward Boys Swim team region champions; Homer Boys small schools football champions and the Kenai Girls are the volleyball state champions. She thanked the public for attending and the staff for all their hard work. Ms. Ecklund wished everyone a good evening.

Vice President Cox reminded everyone of Soldotna Chamber "Shark Tank" event at Lone Moose Lodge on Friday, November 18, 2022. He stated Clerk Blankenship will be missed. Mr. Cox wished everyone a good evening.

President Johnson read a letter he received from the Kasilof precinct chair regarding the special election, requesting the Kasilof precinct be by-mail. He stated he understood this was a sensitive matter and that was why he was mentioning it now. Mr. Johnson stated he was very excited about Jesse Bjorkman's senate race. He thanked Clerk Blankenship for her service and stated he would help Deputy Clerk Turner out as best as he could during this transition.

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

1. December 13, 2022 Material Subcommittee Meeting
Time TBD Betty J. Glick Assembly Chambers
Borough Administration Building
Remote participation available through Zoom
Meeting ID: 884 7373 9641 Passcode: 671108

2. December 13, 2022 Regular Assembly Meeting
Time 6:00 PM Betty J. Glick Assembly Chambers
Borough Administration Building
Remote participation available through Zoom
Meeting ID: 884 7373 9641 Passcode: 671108

ADJOURNMENT

With no further business to come before the assembly, President Johnson adjourned the meeting at 10:28 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of November 15, 2022.

_____
Johni Blankenship, MMC, Borough Clerk

Approved by the Assembly: _____

KPMCS

KENAI PENINSULA MIDDLE COLLEGE SCHOOL

CAREER TECHNICAL EDUCATION

KENAI PENINSULA BOROUGH SCHOOL DISTRICT

CTE Inspiring Students. Building Skills.







Presented by:

Annaleah Karron

KPBSD College & Career Readiness Coordinator

akarron@kpbsd.k12.ak.us



KPBSD Career & Tech Programs

Culture of Innovation

RELEVANCE

RESPONSIVE

RIGOR

KENAI PENINSULA BOROUGH SCHOOL DISTRICT

Inspiring students. Building Skills.
KPBSD CTE program creates opportunities for students to explore careers & gain necessary skills for their future.

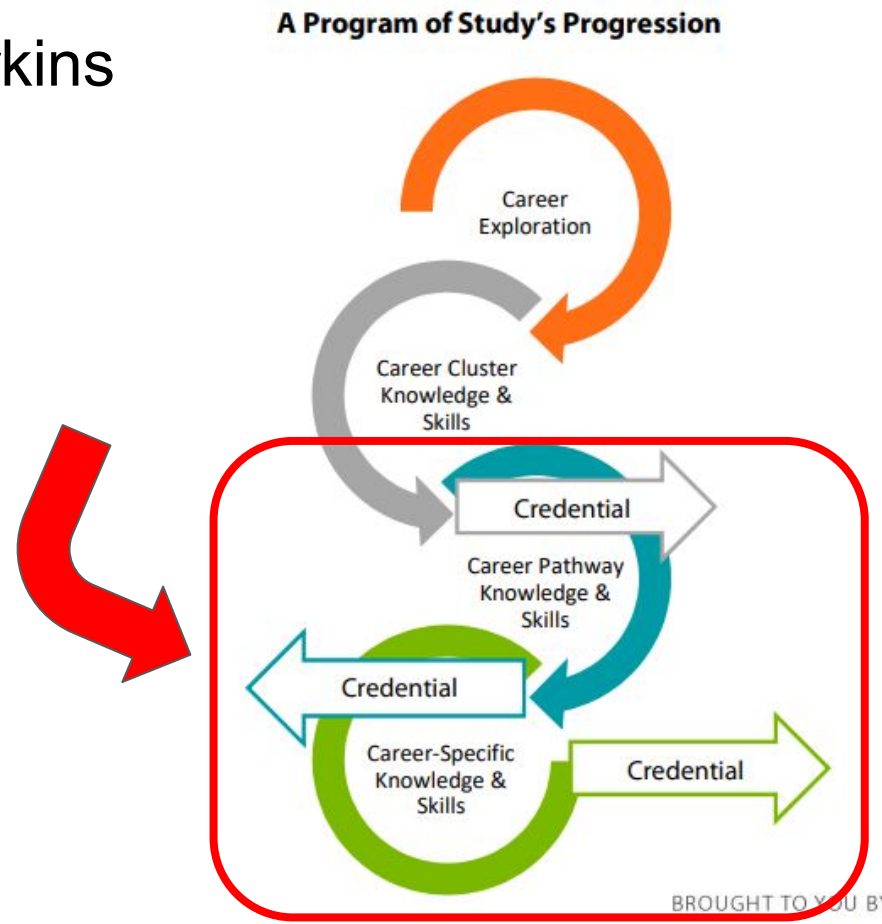
www.kpbsd.org

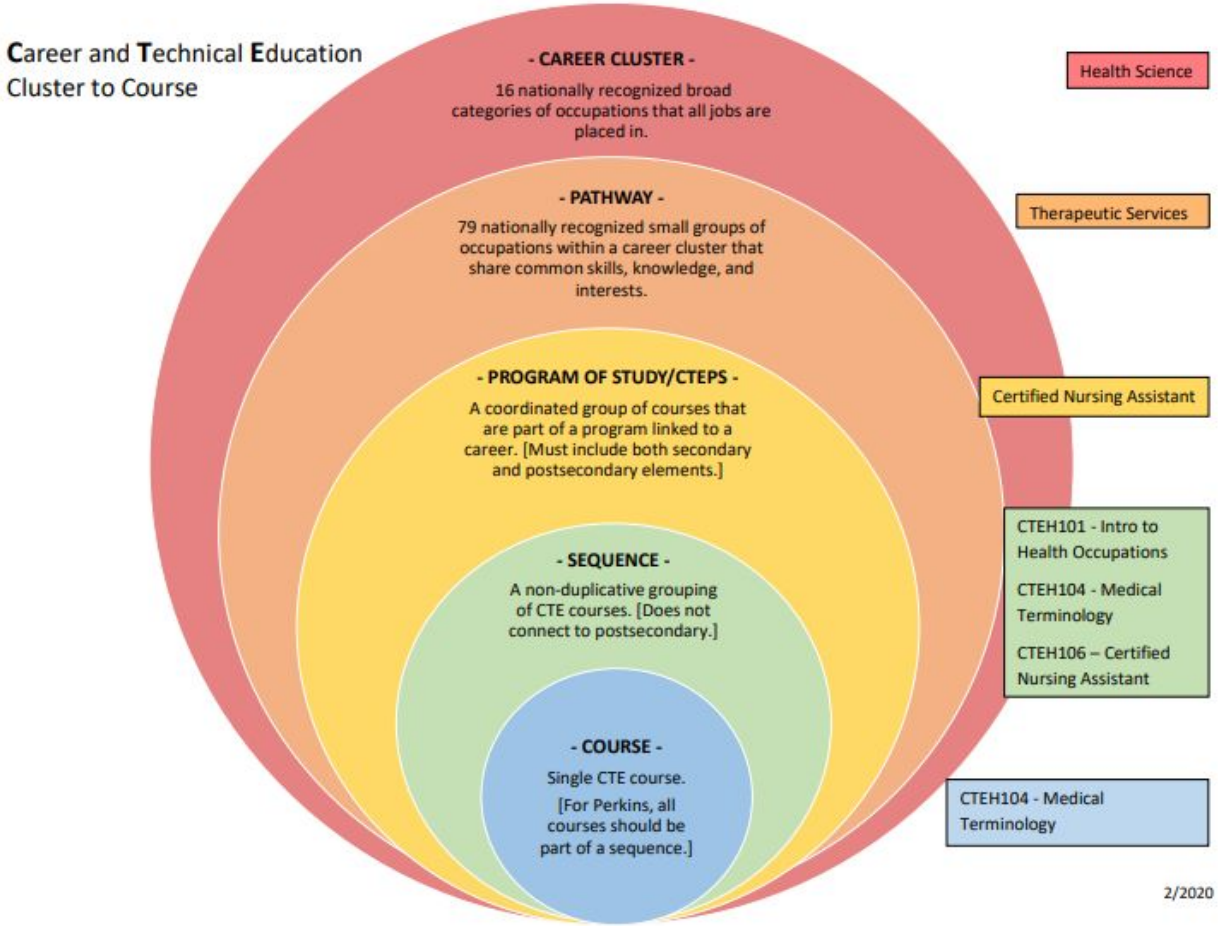
Career Clusters & Carl Perkins Funding

Perkins funding requires a clear Pathway or "Program of Study" it is NOT intended to be Exploratory / Elective opportunities.

Programs of Study consist of an intentional sequence of specialized courses; Link secondary and postsecondary education; Integrate challenging academic and technical instruction; Include dual credit opportunities; Lead to an industry-recognized credential, certificate or degree

*Perkins funding CAN be used for Pre-Knowledge & skills if directly linked TO a pathway. Pending Approval.





16 Career Clusters

79 Pathways of Occupational groups

A group of courses that lead to a Career including post secondary

Set of 2 or more high school courses leading towards a CTEP

A single Course

Current KPBSD Clusters: We currently have classes in 13 Clusters.

- Agriculture, Food & Natural Resources
- Architecture & Construction Architecture & Construction
- A/V Technology & Communications
- Business, Management & Administration
- Education & Training
- Hospitality & Tourism
- Human Services
- Information Technology
- Health Science
- Manufacturing
- Science, Technology, Engineering & Mathematics
- Transportation, Distribution & Logistics
- Law, Public Safety, Corrections & Security

- Government & Public Administration
- Marketing
- Management
- Planning, Management & Regulation

****Work based experience are offered in ALL Clusters:**

- Career Based Learning Cooperative Work Experience [WW708]
- Career Based Learning: On The Job Training [WW710]

What does CTE look like in KPBSD?

Current Course Offerings *Classes count in other Clusters



Homer HS Natural Resources

- **Agriculture, Food & Natural Resources**
  - Nautical Skills, Introduction to (AVTEC)]
  - Power Mechanics 1
  - Marine Technology (AVTEC)
  - Natural Resources Technology
  - Natural Resources Technology II

- **Business, Management & Administration**
  - *Employability Skills
  - Accounting 1
  - Commercial / Yearbook Publishing
  - Desktop Publishing 1
  - Marketing 1



- **Architecture & Construction**
  - *CAD/CAM
  - Construction / Manufacturing Woods
  - Construction Manufacturing Metals
  - *Drafting 1 / 2
  - Construction 1/ 2 / 3/ 4
  - Welding 1 / 2 / 3/ 4
  - Woodworking 1 / 2



SOHI Construction



KMS Woodworking

- **Education & Training**
  - Introduction to Education (EdRising)
  - Development as a Professional Educator (EdRising)



iChoice Teachers: Beth Swaby & Emanuela Pokryfki

- **Human Services / Hospitality**
  - Culinary Arts 1
  - Foods 1 / 2
  - Child Development 1 /2
  - Consumer Education
  - Culinary Arts 2
  - Family & Consumer Science
  - Nutrition of Food
  - MS Intro to Foods



KCHS Culinary Class

- **Health Science**
  - Certified Nursing Assistant
  - Emergency Trauma Technician
  - Medical Terminology
  - Pharmacy, Introduction to
  - Emergency Medical Technician (EMT)



Homer Area ETT Class

- **Manufacturing**
  - *CAD/CAM
  - *Power Mechanics 1 / 2
  - Welding 1/ 2/3/4



SOHI EMT Class



- **Information Technology**
  - Computer Science
  - *Web Design (PWSC/ iReady)
  - PWSC Tech Learner Courses
  - Digital Electronics (PLTW)
  - Cybersecurity (*Fall 23)

- **A/V Technology & Communications**
  - *Computer Applications 1/2/3/4
  - *Digital Photography 1
  - **Commercial Communications 1 / 2
  - *Digital Photography 2



PENINSULACLARION.COM

Kenai Peninsula esports teams ready for state championships | Peninsula Clarion

Players contend with changing games, increased pressure, rival rematches





What does CTE look like in KPBSD?

- **Science, Technology, Engineering & Mathematics (STEM)**
  - Introduction to Engineering (PLTW)
  - Robotics
  - Principles of Engineering (PLTW)
  - Metal Processes 1
  - *Principles of Technology I

- **Law, Public Safety, Corrections & Security**
  - Justice 1 / 2
  - Introduction to Criminal Justice
  - Criminal Forensics

- **Transportation, Distribution & Logistics**
  - Automotive Tech 1/2/3
  - WDC Welding Fabrication 1 / 2
  - Small Engine Repair (Yamaha)

Kenai Middle Robotics



Homer High Welding





Razdolna Mobile Welding Lab

CAREER TECHNICAL EDUCATION
KENAI PENINSULA BOROUGH SCHOOL DISTRICT

CTE Inspiring Students. Building Skills.

Current Opportunities!

- **KPC/KBC:** CNA, Welding, Process Technology, Art, and MORE!
- **AVTEC:** Young Mariners Nautical Course (10 spots for Spring)
- **ETT/ EMT** SOHI (S1) Kenai (S2) Homer (after hours class) (*KPC course also available).
- **PWSC:** Tech Learners Courses
  *Contact Beth Swaby for KPBSD iChoice options.
- **iChoice:** Computer Sciences, Intro to Education (EdRising) Current Offerings HERE:
- **Workforce Development Center (WDC)**: Auto, Welding, CAD/CAM

*Additional courses offered at individual schools! Just ask!





Future Opportunities!

- **Spring CNA @ KPC** -
  - Fridays 8-5pm + 2 Week Practicum
  - Planning for Homer & Seward opportunities!
- **CTE Intensive / Camps** - We are looking for instructors and topics for hands-on CTE Camps
  - RiggSafe / Scaffolding / OSHA / ETT / FF1 and more!
- **Spring CTE Teacher PD Training Grant:** Construction / Computer Science & Human Services (Health / Education)
- **College & Career Fair - Fall 23**



Outside Organizations

- **UAF CTC Programs:** https://www.ctc.uaf.edu/
- **Kenai Peninsula Economic Development District:** https://kpedd.org/ https://kenaipeninsulaworkforce.org/
- **Alaska General Contractors:** www.webuildalaska.com
- **UAF RAHI Summer Program** https://www.uaf.edu/rahi/
- **UAF Mining and Petroleum Training** MAPTS



AKCIS - Career Planning - Students access through KPBSD/ Clever Link https://acpe.alaska.gov/PLANNING/AKCIS

***MS** - EdRising MS Curriculum, AKCIS Jr. and Kids2College

Scholarship Folder - Find local scholarships or state & National ones related to your career interests.

APS Information - Start this conversation in Middle School! https://acpe.alaska.gov/FINANCIAL-AID/AK-Performance-Scholarship

CAREER TECHNICAL EDUCATION
KENAI PENINSULA BOROUGH SCHOOL DISTRICT

CTE Inspiring Students. Building Skills.

Questions?



Presented by:

Annaleah Karron

KPBSD College & Career Readiness Coordinator

akarron@kpbsd.k12.ak.us

Introduced by:	Mayor
Date:	11/15/22
Hearing:	12/13/22
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-19-26

AN ORDINANCE ACCEPTING AND APPROPRIATING THE "YEAR TWO" OPIOID SETTLEMENT FUNDS DISTRIBUTED THROUGH THE STATE OF ALASKA

WHEREAS, in 2021, the State of Alaska ("State") and nine political subdivisions within the State, including the Kenai Peninsula Borough ("Borough") signed on to two nationwide settlement agreements related to the opioid endemic ("opioid settlements"); and

WHEREAS, Ordinance 2021-19-50 established a grant program to distribute the opioid settlement funds in accordance with parameters set by the opioid settlements; and

WHEREAS, per the opioid settlements, funds will be distributed through the State over the course of 18 years; and

WHEREAS, the settlement funds that the Borough will receive for its "year two" distribution amount is $30,653.98; and

WHEREAS, this ordinance appropriates $$30,653.98 as received for the purposes outlined in opioid settlements and the Ordinance 2021-19-50; and

WHEREAS, the Assembly finds that it is in the best interest of the Kenai Peninsula Borough to accept and appropriate, on a project basis, the opioid settlement funds for the Opioid Settlement Fund Grant program;

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

SECTION 1. The amount of $30,653.98 is appropriated to account 271.94910.OPD23.49999 for use for the Opioid Settlement Fund Grant Program established by Ordinance 2021-19-50.

SECTION 2. That appropriations made in this ordinance are project length in nature and as such do not lapse at the end of any particular fiscal year.

SECTION 3. This ordinance shall be effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2022.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

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Kenai Peninsula Borough
Community & Fiscal Projects

MEMORANDUM

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

THRU: Mike Navarre, Mayor MN
Brandi Harbaugh, Finance Director BH

FROM: Rachel Chaffee, Community & Fiscal Projects Manager RC

DATE: November 3, 2022

RE: Ordinance 2022-19-26, Accepting and Appropriating the "Year Two" Opioid Settlement Funds Distributed Through the State of Alaska (Mayor)

In 2021, the State of Alaska and nine political subdivisions within the State, including the Kenai Peninsula Borough ("Borough") agreed to and entered into two nationwide settlement agreements related to the opioid endemic ("opioid settlements").

Ordinance 2021-19-50 established Borough an Opioid Settlement Fund Grant Program to administer and distribute funds received through the opioid settlements and in accordance with the requirements of the settlement agreements. The Kenai Peninsula Borough has received $30,653.98 for the "year two" distribution amount.

Your support of the ordinance is appreciated.

FINANCE DEPARTMENT
FUNDS/ACCOUNT VERIFIED

Acct. No. 271.94910.OPD23.49999

Amc 30,653.98

By: CG Date: 11/2/2022

Introduced by:	Mayor
Date:	05/03/22
Hearing:	05/17/22
Action:	Introduced and Set for Public Hearing on 08/09/22
Vote:	9 Yes, 0 No, 0 Absent
Date:	08/09/22
Action:	Enacted as Amended
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2021-19-50

AN ORDINANCE ACCEPTING AND APPROPRIATING THE OPIOID SETTLEMENT FUNDS AND ESTABLISHING THE OPIOID SETTLEMENT FUND GRANT PROGRAM

WHEREAS, the State of Alaska (the "state") has agreed to a settlement agreement with three major distributors (Cardinal, McKesson and AmerisourceBergen) and one marketer and manufacturer (Johnson & Johnson) of opioids as part of a national settlement agreement; and

WHEREAS, Resolution 2021-074 authorized **t**he Kenai Peninsula Borough (Borough) to join the settlement as one of the nine political subdivisions of the state; and

WHEREAS, approximately $58 million in settlement funds will be distributed to the State of Alaska; and

WHEREAS, the payments will be distributed annually over the next 18 years; and

WHEREAS, under the default terms of the national settlement agreements, 15% of the settlement funds, or approximately $8.7 million, will be distributed over 18 years to the nine political subdivisions that signed-on to the agreement, this fund is referred to as the "Subdivision Fund"; and

WHEREAS, per the settlement, the allocation of the Subdivision Fund distributions will be based on population with the Borough set to receive 9.4922% of the ~$8.7 million over 18 years (the distribution based on population is as follows: Anchorage will receive 47.6578%, Mat-Su Borough - 15.4726%, Fairbanks North Star Borough – 10.9627%, Juneau – 5.2324%, Fairbanks 5.1226%, Ketchikan – 2.2406%, Kodiak – 2.1839%, Wasilla – 1.6351%); and

WHEREAS, in addition, 15% of the settlement funds will go directly to the state ("State Fund") and 70% of the settlement funds will be distributed to the Abatement Accounts Fund, which will be under the control and direction of the state; and

WHEREAS, Borough staff initiated meetings with various community stakeholders to see public input in order to create a plan to distribute the funds; and

WHEREAS, the Borough has an existing internal process for managing and distributing grant funds and the funds can be distributed throughout the Kenai Peninsula Borough; and

WHEREAS, this ordinance appropriates the settlement funds distributed by the state to the Borough for opioid remediation purposes as defined, outlined, and allowed pursuant to the Final Distributor Settlement Agreement; and

WHEREAS, the Assembly finds that it is in the best interests of the Kenai Peninsula Borough to start an Opioid Settlement Fund Grant Program to distribute the funds in the manner below:

1. Given the limited number of funds, the total number of annual grants issued under this grants program will be limited to five grants.

2. All opioid settlement funds will be distributed through this program.

3. The grant program will be managed and directed by the Community and Fiscal Projects Manager.

4. Eligible Entities:

    a. Nonprofit Entities.

    b. Medical providers and mental health providers with active licenses to practice under their respective Alaskan Boards with no actions against their licenses in the prior three years, and who are not in arrears in any amounts owed to the Kenai Peninsula Borough.

    c. Businesses who employ medical providers or mental health providers with active licenses to practice under their respective Alaskan Boards with no actions against their licenses in the prior three years, and who are not in arrears in any amounts owed to the Kenai Peninsula Borough.

    d. Native Tribes and Corporations that have not received opioid settlement funds previously, and have by resolution waived immunity from suit for claims arising out of activities of the council related to the grant

    e. For any entity to be considered eligible under this category all entities must be current on all legal filings at the Federal, State, and Local levels and may not be in arrears in any balances due to the Kenai Peninsula Borough.

5. Services by the entities must be provided to the Kenai Peninsula Borough residents.

6. Additional funds received mid-year can be applied to existing grantees as appropriated by the Assembly, and as allowed under the applicable settlement agreement.

   a. The Assembly may elect to hold mid-year receipts until a subsequent year for increased grant distributions, should funding restrictions permit.

7. Notification of Grants will be placed on the Grants webpage, under the Mayor's Office homepage, on the Kenai Peninsula Borough's website.

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

SECTION 1. That $29,167.84 in opioid settlement funds are accepted and appropriated to account 271.94910.OPD22.49999, for use for the Opioid Settlement Fund Grant Program.

SECTION 2. The Opioid Settlement Fund Grant Program is hereby established. The program will be managed by the Community and Fiscal Project Manager in a manner consistent with this ordinance.

SECTION 3. That appropriations made in this ordinance are project length in nature and as such do not lapse at the end of any particular fiscal year.

SECTION 4. That this ordinance shall be effective immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 9TH DAY OF AUGUST 2022.

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

05/03/22 vote on motion to introduce and set for public hearing on 08/09/22:

Yes:	Bjorkman, Chesley, Cox, Derkevorkian, Ecklund, Elam, Hibbert, Tupper, Johnson
No:	None
Absent:	None

08/09/22 vote on motion to enact as amended:

Yes:	Bjorkman, Chesley, Cox, Derkevorkian, Ecklund, Elam, Hibbert, Tupper, Johnson
No:	None
Absent:	None

Introduced by:	Mayor
Date:	11/15/22
Hearing:	12/13/22
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-19-27

AN ORDINANCE ACCEPTING AND APPROPRIATING GRANT FUNDS OF $150,000 FOR THE KENAI PENINSULA BOROUGH FISH PASSAGE PROJECT, A PARTNERSHIP BETWEEN THE KENAI PENINSULA BOROUGH AND THE U.S. FISH & WILDLIFE SERVICE

WHEREAS, the Kenai Peninsula Borough ("Borough") and the U.S. Fish & Wildlife Service have entered into a partnership that will result in planning, prioritizing, conceptual designs, and stakeholder meetings in support of improving fish passages within the Kenai Peninsula Road Service Area ("RSA"); and

WHEREAS, the funds issued will have a small in-kind match requirement of $5,500, $5,000 of which will be personnel and personnel related costs, and $500 of which will be travel related costs; and

WHEREAS, the funds have been verified and are available within the RSA budget; and

WHEREAS, the project, once complete, will assist with funding to repair and replace fish passages in the Borough and within the RSA utilizing grant opportunities; and

WHEREAS, there is a need for repair and replacement of fish passages throughout the Borough, which this study will help to identify and prioritize which passages should be repaired and replaced first;

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

SECTION 1. The Mayor is hereby authorized to execute grant agreements and any other documents deemed necessary to expend the funds and to fulfill the intents and purposes of this ordinance.

SECTION 2. The amount of $150,000.00 received from the U.S. Fish & Wildlife, through the Fish and Wildlife Coordination Act Cooperation of Agencies (16 U.S.C 661) be appropriated to account 236.33950.23PAS.49999 for the Road Service Area Fish Passage Partnership Project.

SECTION 3. That the in-kind match funds will be provided through previously appropriated funds in the Road Service Area Operating Fund.

SECTION 4. That appropriations made in this ordinance section 2 are project length in nature and as such do not lapse at the end of any particular fiscal year.

SECTION 5. That upon enactment this ordinance is effective retroactive to August 25, 2022.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2022.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

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Kenai Peninsula Borough
Community & Fiscal Projects

MEMORANDUM

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

THRU: Mike Navarre, Mayor MN
Brandi Harbaugh, Finance Director BH
Dil Uhlin, Roads Director DU

FROM: Rachel Chaffee, Community & Fiscal Projects Manager RC

DATE: November 3, 2022

RE: Ordinance 2022-19-27, Accepting and Appropriating Grant Funds of $150,000 for the Kenai Peninsula Borough Fish Passage Project, a Partnership between the Kenai Peninsula Borough and the U.S. Fish & Wildlife Service (Mayor)

The Kenai Peninsula Borough (KPB) and the U.S. Fish & Wildlife Service have entered into a partnership that will result in planning, prioritizing, conceptual designs, and stakeholder meetings in support of improving fish passages within the Kenai Peninsula Borough Road Service Area (RSA). The purpose is to get closer to assessing all stream crossings and replacing priority culverts and bridges within the RSA and KPB rights-of-way. This project is expected to be of assistance while evaluating future fish passage replacement projects. The project provides $150,000 of federal funds with a non-cash match of $5,500.

This project addresses the high needs fish-passages and bridges that are within the RSA, and has the potential to provide funding opportunities in the near future.

FINANCE DEPARTMENT
FUNDS/ACCOUNT VERIFIED

Account: 236.33950.23PAS.49999

Amount: $ 150,000

By: CG Date: 11/2/2022

Introduced by:	Mayor
Date:	11/15/22
Hearing:	12/13/22
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-19-28

AN ORDINANCE ACCEPTING AND APPROPRIATING A GRANT FROM FM GLOBAL FOR THE PURCHASE OF TWO HYDROCARBON AND ACCELERANT DETECTORS FOR WESTERN EMERGENCY SERVICE AREA

WHEREAS, Western Emergency Service Area applied for a small grant through FM Global for the purchase of two hydrocarbon and accelerant detectors in the amount of $3,950, and received the grant as of October 13, 2022; and

WHEREAS, there is no match requirement, and the items requested were not previously planned for within the Western Emergency Service Area's FY2023 budget cycle; and

WHEREAS, the two pieces of equipment will assist the department with providing better services to the fire service area;

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

SECTION 1. The mayor is hereby authorized to execute grant agreements and any other documents deemed necessary to expend the funds and to fulfill the intents and purposes of this ordinance.

SECTION 2. The amount of $3,950.00 received from FM Global is appropriated to account 209-51410-23GFP-49999 for the purchase of two hydrocarbon and accelerant detectors on behalf of Western Emergency Service Area.

SECTION 3. That appropriations made in this ordinance are project length in nature and as such do not lapse at the end of any particular fiscal year.

SECTION 4. That this ordinance shall be effective retroactive to October 13, 2022.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2022.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

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Kenai Peninsula Borough
Community & Fiscal Projects

MEMORANDUM

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

THRU: Mike Navarre, Mayor MN
Brandi Harbaugh, Finance Director BH
Jon Marsh, Chief Western Emergency Service Area JM

FROM: Rachel Chaffee, Community & Fiscal Projects Manager RC

DATE: November 3, 2022

RE: Ordinance 2022-19- 28 , Accepting and Appropriating a Grant from FM Global for the Purchase of Two Hydrocarbon and Accelerant Detectors for Western Emergency Service Area (Mayor)

Western Emergency Service Area applied for funds through FM Global for the purchase of two hydrocarbon and accelerant detectors for $3,950 and received the grant award. The grant is for the purchase of equipment that was not previously planned for in the budget cycle, and the equipment is expected to better assist the fire department with its services.

There is no match requirement for the grant, and the grant is not federal or state funded.

Your consideration of the ordinance is appreciated.

FINANCE DEPARTMENT
FUNDS/ACCOUNT VERIFIED

Account: 209.51410.23GFP.49999

Amount: $3,950.00

By: CG Date: 11/1/2022

Introduced by:	Mayor
Date:	11/15/22
Hearing:	12/13/22
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-19-29

AN ORDINANCE APPROPRIATING SUPPLEMENTAL FUNDING OF $216,165 FROM THE SEWARD BEAR CREEK FLOOD SERVICE AREA FUND TO REPLENISH THE EMERGING SITUATIONS BUDGET AND TO FUND SITE MAINTENANCE PROJECTS IN LOST CREEK AND SAWMILL CREEK

WHEREAS, budget ordinance 2022-19 approved $20,000 in the Seward Bear Creek Flood Service Area ("SBCFSA") budget for mitigation work under the emerging situations policy; and

WHEREAS, the SBCFSA has funded three emerging situations in the total amount of $26,165 to address mitigation work in Kwechak and Sawmill creeks, exceeding the budgeted amount for this fiscal year; and

WHEREAS, supplemental appropriation is requested to replenish $20,000 for future emerging situations; and

WHEREAS, supplemental appropriation is requested to replenish $6,165 to contract services; and

WHEREAS, supplemental funding of $190,000 is requested for maintenance work on Lost Creek and Sawmill Creek, these projects will improve stream conveyance and minimize potential flooding; and

WHEREAS, on September 12, 2022, the SBCFSA board unanimously recommended $190,000 for two site maintenance projects located in Lost Creek and Sawmill Creek;

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

SECTION 1. That the sum of $26,165 is appropriated from the Seward Bear Creek Flood Service Area fund balance to account 259.21212.00000.43011, contract services, for replenishment of the emerging situations budget.

SECTION 2. That the sum of $190,000 is appropriated from the Seward Bear Creek Flood Service Area fund balance to account 259.21212.00000.43011, contract services, to fund the Lost Creek and Sawmill Creek maintenance projects.

SECTION 3. The funds will lapse at the end of the fiscal year.

SECTION 4. That this ordinance shall be effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2022.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

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Kenai Peninsula Borough
Seward Bear Creek Flood Service Area

MEMORANDUM

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

THRU: Mike Navarre, Mayor MN
Brenda Ahlberg, Emergency Manager BA
Brandi Harbaugh, Finance Director BH
John Hedges, Purchasing & Contracting Director JH

FROM: Stephanie Presley, SBCFSA Program Lead SP

DATE: November 3, 2022

RE: Ordinance 2022-19-29, Appropriating Supplemental Funding of $216,165 from the Seward Bear Creek Flood Service Area Fund to Replenish the Emerging Situations Budget and to Fund Site Maintenance Projects in Lost Creek and Sawmill Creek (Mayor)

Within this fiscal year, the Seward Bear Creek Flood Service Area (SBCFSA) has addressed three emerging situations in the total amount of $26,165, exceeding the approved budget of $20,000 for fiscal year 2022/2023 (FY23). An emerging situation is an unanticipated developing situation that appears likely to result in significant flood damage within the immediate future if no actions are promptly taken. An emerging situation would benefit from SBCFSA taking action before conditions deteriorate to an emergency or disaster level event, generally at a lower cost than a response delayed until post emergency/disaster occurrence.

Assembly approval is requested to replenish the emerging situation budget of $20,000, to replenish contract services in the amount of $6,165, and to fund two maintenance projects to address significant gravel loading to improve stream conveyance and minimize potential flooding. The SBCFSA board unanimously recommended work to be completed in Lost Creek at $81,400 and Sawmill Creek at $108,600. The work will be completed by June 30, 2023.

Your consideration of the ordinance is appreciated.

FINANCE DEPARTMENT
FUNDS/ACCOUNT VERIFIED

Account: 259.27910

Amc 16,165

By: CG Date: 11/2/2022

Introduced by:	Mayor
Date:	05/03/22
Hearings:	05/17/22 & 06/07/22
Action:	Postponed as Amended to 06/07/22
Vote:	8 Yes, 0 No, 1 Absent
Date:	06/07/22
Action:	Enacted as Amended
Vote:	6 Yes, 0 No, 3 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2022-19

AN ORDINANCE APPROPRIATING FUNDS FOR FISCAL YEAR 2023

WHEREAS, Alaska Statute 29.35.100 and KPB 05.04.020 require that the mayor present a budget proposal to the assembly for the next fiscal year during or prior to the eighth week preceding the first day of the fiscal year; and

WHEREAS, the assembly is empowered with making appropriations for the General Fund, the Special Revenue Funds, the Debt Service Funds, the Capital Projects Funds, the Enterprise Funds, the Internal Service Funds of the borough, setting the Salary Range Schedule for Appendix A Personnel and fee schedule;

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

SECTION 1. That $95,022,741 is appropriated in the General Fund for the fiscal year beginning July 1, 2022 and ending June 30, 2023 as follows:

General Government Operations	$20,534,664
Transfer to School District for Operations and In-kind Services	52,564,284
Transfer to School Debt Service	3,498,733
Transfer to Special Revenue Funds:	
Solid Waste	10,578,990
Post-Secondary Education	892,732
911 Communications Fund	150,000
Eastern Peninsula Highway Emergency Service Area	178,338
Transfer to Capital Projects Funds:	
School Revenue	5,250,000
General Government	500,000
Nikiski Fire Service Area – PILT	175,000
Bear Creek Fire Service Area – PILT	175,000
Central Emergency Service Area – PILT	175,000
Western Emergency Service Area – PILT	175,000
Kachemak Emergency Service Area – PILT	175,000

SECTION 2. The following is appropriated to the School Fund from local sources for operations purposes and in-kind services:

A. Local Effort	$39,741,388
B. Maintenance	8,683,359
C. School District Utilities	81,600
D. School District Insurance	3,824,600
E. School District Audit	100,773
F. Custodial Services	132,564
Total Local Contribution per AS 14.17.410	$52,564,284

SECTION 3. Disbursements from Section 2 item (A) shall be made monthly, and only as needed to supplement other revenues available and received by the school district to fund the operations portion of the school district budget. Any available balance remaining at the end of the fiscal year shall then be disbursed to the school district, provided that the total amount disbursed shall not exceed the amount allowed under AS 14.17.410 as determined after actual enrollment numbers are known.

SECTION 4. That the appropriations for the Special Revenue Funds for the fiscal year beginning July 1, 2022 and ending June 30, 2023 are as follows:

Nikiski Fire Service Area	$6,094,148
Bear Creek Fire Service Area	1,029,706
Western Emergency Service Area	2,389,669
Central Emergency Service Area	12,183,752
Central Peninsula Emergency Medical Service Area	7,346
Kachemak Emergency Service Area	2,194,203
Eastern Peninsula Highway Emergency Area	344,070
Seward Bear Creek Flood Service Area	473,746
911 Communications	4,376,985
Kenai Peninsula Borough Road Service Area	9,648,338
Engineer's Estimate Fund	12,300
North Peninsula Recreation Service Area	3,035,671
Seldovia Recreational Service Area	64,239
Post-Secondary Education	892,732
Land Trust	3,526,780
Nikiski Senior Service Area	345,219
Solid Waste	11,316,062
Central Kenai Peninsula Hospital Service Area	9,792,639
South Kenai Peninsula Hospital Service Area (Prior Debt Fund 601)	2,216,719
South Kenai Peninsula Hospital Service Area (Operations Fund 602)	2,327,079

SECTION 5. That $3,498,733 is appropriated in the School Debt Service Fund for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

SECTION 6. That $571,563 is appropriated in the Central Emergency Services Debt Service Fund for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

SECTION 7. That $84,323 is appropriated in the Bear Creek Fire Service Area Debt Service Fund for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

SECTION 8. That $9,275,924 is appropriated in the Central Kenai Peninsula Hospital Service Area Debt Service Fund for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

SECTION 9. That $2,216,719 is appropriated in the South Kenai Peninsula Hospital Service Area Debt Service Fund for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

SECTION 10. That $1,061,250 is appropriated in the Solid Waste Service Area Debt Service Fund for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

SECTION 11. That appropriations for the Capital Projects Funds for the fiscal year beginning July 1, 2022 and ending June 30, 2023 are as follows:

School Revenue	$5,250,000
General Government	887,702
911 Communications	129,652
Solid Waste	630,000
Service Areas:	
Nikiski Fire	390,000
Bear Creek Fire	442,500
Western Emergency Service Area	345,000
Central Emergency Services	1,525,000
Kachemak Emergency Service Area	662,500
North Peninsula Recreation	779,000
Road Service Area	2,565,550
South Kenai Peninsula Hospital	2,356,136

SECTION 12. That appropriations for the Internal Service Funds for the fiscal year beginning July 1, 2022 and ending June 30, 2023 are as follows:

Insurance and Litigation	$6,013,594
Health Insurance Reserve	9,191,940
Equipment Replacement	650,000

SECTION 13. That the FY2023 budget of the Kenai Peninsula Borough, as submitted to the assembly on May 3, 2022, is incorporated as a part of this ordinance to establish the appropriations assigned to the various departments and accounts and the positions authorized therein.

SECTION 14. That funds reserved for outstanding encumbrances as of June 30, 2022 are reappropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

SECTION 15. That the fee schedule presented in the budget document is approved.

SECTION 16. That this ordinance takes effect at 12:01 a.m. on July 1, 2022.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF JUNE, 2022.

Brent Johnson

Brent Johnson, Assembly President

ATTEST:

John Blankenship

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

05/17/22 Vote on motion to postpone to 06/07/22 as amended:

Yes:	Bjorkman, Chesley, Cox, Derkevorkian, Ecklund, Elam, Tupper, Johnson
No:	None
Absent:	Hibbert

06/07/22 Vote on motion to enact as amended:

Yes:	Bjorkman, Ecklund, Elam, Hibbert, Tupper, Johnson
No:	None
Absent:	Chesley, Cox, Derkevorkian

Introduced by:	Mayor
Date:	11/15/22
Hearing:	12/13/22
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-19-30

AN ORDINANCE APPROPRIATING SUPPLEMENTAL FUNDS TO LAND MANAGEMENT OPERATIONS FOR THE REMAINDER OF FISCAL YEAR 2023

WHEREAS, the Kenai Peninsula Borough ("Borough") Land Management Division is responsible for the management of Borough lands and natural resources; and

WHEREAS, the Borough Land Management Division operates under the Land Trust Fund Account 250; and

WHEREAS, $77,850.88 has been obligated from the Land Trust Fund Account 250 under emergency procurement for assessment and removal services in response to investigating and resolving a trespass situation in Hope, AK; and

WHEREAS, it is anticipated that funds in the amount of $28,145.88 will be reimbursed by the State of Alaska for clean-up costs associated with state land on a cooperative government-to-government basis, which will be directed to the Land Trust Fund upon acceptance; and

WHEREAS, additional appropriation is needed to replace the funds obligated to the Hope clean-up response;

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

SECTION 1. That the amount of $77,850 is appropriated from the Land Trust Fund fund balance to account 250.21210.43011 to replenish contract service funds utilized on the Hope response project and provide for FY2023 land management contact services originally budgeted for in FY2023.

SECTION 2. That this ordinance shall be effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2022.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

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Kenai Peninsula Borough
Planning Department – Land Management Division

MEMORANDUM

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

THRU: Mike Navarre, Mayor MN
Brandi Harbaugh, Finance Director BH
Robert Ruffner, Planning Director SLFRR

FROM: Marcus A Mueller, Land Management Officer mam

DATE: November 3, 2022

RE: Ordinance 2022-19-30, Appropriating Supplemental Funds to Land Management Operations for the Remainder of Fiscal Year 2023 (Mayor)

KPB's Land Management Division is responsible for the management of KPB lands and natural resources. An environmental assessment and clean up was initiated in response to a trespass situation in Hope involving tanks and barrels of improperly stored fluids, which obligated approximately $77,850 from Land Trust Fund account 250.21210.43011 for contract services under emergency procurement. $28,145.88 is anticipated to be reimbursed by the State of Alaska for contract costs involving adjacent State lands.

The attached ordinance would appropriate $77,850 from the Land Trust Fund fund balance to the FY23 Land Management operating budget to replace funds obligated to the Hope environmental hazard response.

Your consideration of the ordinance is appreciated.

FINANCE DEPARTMENT
FUNDS/ACCOUNT VERIFIED

Account: 250.27910

Amt: $77,850

By: CG Date: 11/2/2022

Introduced by:	Mayor
Date:	11/15/22
Hearing:	12/13/22
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-19-31

AN ORDINANCE APPROPRIATING $1,625,000 FROM THE GENERAL FUND TO PROVIDE INTERIM FUNDING FOR PRELIMINARY DESIGN AND DEVELOPMENT OF THE BOND FUNDED SCHOOL PROJECTS AUTHORIZED BY BALLOT PROPOSITION 2 AT THE OCTOBER 2022 ELECTION

WHEREAS, at an election held in the Kenai Peninsula Borough, Alaska ("Borough"), on October 4, 2022, a majority of the qualified electors of the Borough voting thereon voted in favor of authorizing the issuance of educational capital improvement general obligation bonds of the Borough, in an aggregate principal amount not to exceed $65,550,000 ("Bonds"), to finance costs of planning, designing, site preparations, construction, acquiring, renovating, installing, and equipping education capital improvements in the Borough ("Proposition No. 2"), as authorized by Ordinance No. 2022-20 of the Borough, passed and approved by the Borough Assembly on June 21, 2022 (the "Election Ordinance"); and

WHEREAS, issuance of a portion of the Bonds is anticipated to occur in the first quarter of calendar year 2023, subject to approval by the Borough Assembly; and

WHEREAS, to timely allow for the design and construction of certain educational capital improvements set forth in Proposition No. 2, preliminary expenditures prior to the issuance of the Bonds, incident to the commencement of construction in 2023 and 2024, are necessary; and

WHEREAS, it is the intent of the Borough to be reimbursed for these preliminary expenditures with proceeds of the Bonds; and

WHEREAS, funds used to finance these preliminary expenditures will be appropriated from the General Fund; and

WHEREAS, the estimated total cost for the initial design development work for the education capital improvement project is $1,625,000.00;

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

SECTION 1. That funds in the amount of $1,625,000.00 are hereby appropriated from the General Fund balance to account 401.78050.23SCH.49999 for preliminary design, development and other related expenditures for FY2023 for education capital improvement projects, as set forth in Proposition No. 2.

SECTION 2. That the appropriations made in this ordinance are of a project length nature and as such do not lapse at the end of any particular fiscal year.

SECTION 3. Official Intent. This ordinance is also adopted to satisfy the "official intent" requirements of Section 1.150-2 of the Treasury Regulations adopted under the authority of the Internal Revenue Code of 1986, as amended, (the "Code") with respect to the educational capital improvement projects described in Proposition No. 2, including the Soldotna Elementary Replacement, the Soldotna Preparatory Renovation, the School Student Drop-off, Seward and Nikiski High School Track and Field Improvements, the KPB/KPBSD Maintenance Shop, School Roof Repairs, Kenai Middle School Safety and Security Renovation, Kenai High School Field Restroom and Concession, Homer High School Front Entrance Improvements, Soldotna High School Siding, and similar educational improvements in the Borough (collectively, the "Projects").

The Borough reasonably expects to issue up to $65,500,000 principal amount of Bonds, in one or more series, to finance costs of the Projects, which are eligible under the Code for financing with proceeds of tax-exempt bonds. Such costs incurred up to 60 days before the effective date of this ordinance will be eligible for reimbursement with proceeds of the Bonds. As of the date set forth below, the Borough reasonably expects that it will issue the Bonds, in one or more series, and use the proceeds of the Bonds as described in this section.

SECTION 4. This ordinance shall be effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2022.

_____
Brent Johnson, Assembly President

ATTEST:

_____
Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

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Kenai Peninsula Borough
Purchasing & Contracting Department

MEMORANDUM

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

THRU: Mike Navarre, Mayor MN

FROM: John Hedges, Purchasing & Contracting Director JH
Brandi Harbaugh, Finance Director BH

DATE: November 3, 2022

RE: Ordinance 2022-19-31, Appropriating $1,625,000 from the General Fund to Provide Interim Funding for Preliminary Design and Development of the Bond Funded School Projects Authorized by Ballot Proposition 2 at the October 2022 Election (Mayor)

On October 4, 2022 the Kenai Peninsula Borough voters approved a ballot measure to sell an amount not to exceed $65,550,000.00 in General Obligation Bonds (Educational Capital Improvements) to finance costs of numerous area-wide school projects in the Kenai Peninsula Borough, as set forth in Proposition No. 2.

The projects associated with the ballot measure are currently in a conceptual status. In order to ensure an effective approach to the design development of the projects slated for work in the 2023 and 2024 construction season, preliminary expenditures incident to the commencement of construction are necessary.

$44 million of the authorized General Obligation Bonds (Educational Capital Improvements) are scheduled for sale in early 2023. It is the intent of the Borough to fund expenditures including design and development of the 2023 and 2024 projects through this initial bond sale. This appropriation would fund the preliminary expenditures with funds from the General Fund, with the intent of reimbursing the General Fund with proceeds from the bonds. .

The projects to be included in this effort will be Soldotna Elementary school replacement/ Soldotna Preparatory school renovation schematic phase, Seward High school track and field replacement, North Star Elementary school roof replacement, assessment and prioritization efforts for Student Drop-off improvements, and Kenai High School restroom and concession facility. Other educational capital improvement design development work may be pursued contingent upon available funding.

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The estimated total cost for the initial design development work is $1,625,000.00.

For these reasons, it is in the best interests of Borough to appropriate $1,625,000.00 from the General Fund to forward fund the work described.

Your consideration of the Ordinance is appreciated.

FINANCE DEPARTMENT
FUNDS/ACCOUNT VERIFIED

Account: 100.27900

Amount: $1,625,000

By: CG Date: 11/2/2022

Introduced by:	Mayor
Date:	06/07/22
Hearing:	06/21/22
Action:	Enacted as Amended
Vote:	9 Yes, 0 No, 0 Absent
Action:	Ratified by the Voters at the 10/4/2022 Election
Vote:	Yes = 5571 No - 3904

KENAI PENINSULA BOROUGH
ORDINANCE 2022-20

AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF THE KENAI PENINSULA BOROUGH THE QUESTION OF THE ISSUANCE OF NOT-TO-EXCEED SIXTY-FIVE MILLION FIVE HUNDRED FIFTY THOUSAND DOLLARS ($65,550,000.00) OF GENERAL OBLIGATION BONDS OF THE KENAI PENINSULA BOROUGH TO PAY THE COST OF EDUCATIONAL CAPITAL IMPROVEMENTS IN THE BOROUGH ON OCTOBER 4, 2022

WHEREAS, Kenai Peninsula Borough School District (KPBSD) staff and administration met with Kenai Peninsula Borough (KPB) staff and administration to develop the list of School Capital Projects for the purpose of requesting voter approval in the October 4, 2022 election; and

WHEREAS, the operational and organization assessment study identifies and recommends that major maintenance, capital improvements, and facility replacement are a critical part of value added facilities management; and

WHEREAS, an in-depth facility asset inspection and review has been completed; and

WHEREAS, a capital improvement list was developed with an estimated $225 million worth of major maintenance and capital improvement projects; and

WHEREAS, in collaboration, the KPBSD and the KPB identified twelve school projects as priority and critical to maintaining key infrastructure for both community and educational needs; and

WHEREAS, site improvements are needed at Homer High School to maintain building integrity; and

WHEREAS, the Nikiski and Seward High School tracks surface and base asphalt have exceeded their useful life and are now deteriorating, and artificial turf will enable the school district and community greater utilization than natural turf without risking damage; and

WHEREAS, the roofs at the following schools in the Kenai Peninsula Borough are at the end of their useful life: Hope school, Mountain View Elementary and Nikiski North Star Elementary; and

WHEREAS, a feasibility study was completed for Soldotna area schools that indicated the need for replacement of the 62-year-old Soldotna Elementary school and relocation of

the District office, River City Academy, Soldotna Montessori, Connections Home School to the former Soldotna Prep facility and necessary improvements required to meet educational requirements, alleviate overcrowding in the Borough Administration Building and extend the life of the facilities; and

WHEREAS, the exterior building envelope is failing at Soldotna High School and repair of the building envelope will extend the life of the facilities and reduce energy consumption; and

WHEREAS, educational improvement projects are needed at Kenai Middle School and Kenai High School to more adequately serve the student population; and

WHEREAS, the expansion of the KPB/KPBSD maintenance shop will improve maintenance efficiency and allow for additional maintenance of our schools and equipment; and

WHEREAS, school traffic patterns have changed with an increase of student drop off by parents rather than buses, resulting in the backup of traffic onto adjacent roads and highways, the district has prioritized a number of these sites Chapman School, Homer Middle School, Kenai Middle School and Mountain View Elementary; and

WHEREAS, it is expected the estimated cost of these capital improvements will not exceed sixty-five million five hundred fifty thousand dollars ($65,550,000);

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

SECTION 1. It is hereby determined to be for a public purpose and in the public interest of the Kenai Peninsula Borough (Borough) to incur general obligation bonded indebtedness in the amount not to exceed sixty-five million five hundred fifty thousand dollars ($65,550,000) for the purpose of financing capital improvements and major maintenance to areawide educational facilities to include costs of planning, designing, site preparations, construction, acquiring, renovating, installing, and equipping educational capital improvement projects including Soldotna Elementary Replacement, Soldotna Preparatory Renovation, School Student Drop-off, Seward and Nikiski High School Track and Field, KPB/KPBSD Maintenance Shop, Various School Roofs, Kenai Middle School Safety and Security Renovation, Kenai High School Field Restroom and Concession, Homer High School Front Entrance Improvements, Soldotna High School Siding, and similar educational capital improvements in the Borough, and costs related to the issuance and selling of the bond(s). The use of proceeds of the bonds to finance the

costs of education capital improvements currently qualify for 50-70% debt service reimbursement under A.S. 14.11.100. Debt reimbursement is subject to annual legislative appropriation by the State of Alaska.

SECTION 2. The sum of not to exceed sixty-five million five hundred fifty thousand dollars ($65,550,000) shall be borrowed by the Kenai Peninsula Borough for education capital improvements described above and shall be evidenced by the issuance of general obligation bonds of the Borough. The bond proceeds shall be used only for the purchase of capital improvements and costs if issuance of the bond. The full faith and credit of the Borough is pledged for the payment of the principal of and interest of bonds, and ad valorem taxes upon all taxable property in the Borough shall be levied without limitation as to the rate or amount to pay principal of and interest on the bonds when due.

SECTION 3. An election is to be held on October 4, 2022, in and for the Kenai Peninsula Borough, for the purpose of submitting a general obligation bond proposition to the qualified voters of the Borough for approval or rejection. The proposition must receive an areawide majority vote of those in the Borough voting on the question to be approved. The proposition shall be substantially in the following form:

PROPOSITION NO. __

EDUCATIONAL CAPITAL IMPROVEMENT GENERAL OBLIGATION BONDS

Shall the Kenai Peninsula Borough incur indebtedness and issue up to $65,550,000 of general obligation bonds?

The general obligation bond proceeds will be used to pay costs of planning, designing, site preparations, construction, acquiring, renovating, installing, and equipping educational capital improvement projects including Soldotna Elementary Replacement, Soldotna Preparatory Renovation, School Student Drop-off, Seward and Nikiski High School Track and Field, KPB/KPBSD Maintenance Shop, Various School Roofs, Kenai Middle School Safety and Security Renovation, Kenai High School Field Restroom and Concession, Homer High School Front Entrance Improvements, Soldotna High School Siding, and similar educational capital improvements in the Borough. The indebtedness will be repaid from ad valorem taxes levied on all taxable property located within the Borough. The Borough will pledge its full faith and credit for repayment of the indebtedness. Voter approval for this proposition authorizes for each $100,000 of assessed real and personal property value in the Borough (based on the estimated FY2023 areawide assessed valuation) an Annual tax of approximately $45 to retire the debt or $25 if the State of Alaska lifts the debt service reimbursement moratorium. Debt service reimbursement is subject to annual legislative appropriation by the State of Alaska.

The indebtedness will be repaid from ad valorem taxes levied on all taxable property located within the Borough. The Borough will pledge its full faith and credit for repayment of the indebtedness.

Voter approval for this proposition authorizes for each $100,000 of assessed real and personal property value in the Borough (based on the estimated FY2023 assessed valuation) an annual tax of approximately $25 to retire the debt assuming 50-70% debt service reimbursement from the State of Alaska or $45 without State reimbursement.

The proposition set forth in Section 3 shall be printed on a ballot which may set forth other general obligation bond propositions, and the following words shall be added as appropriate and next to an area provided for marking the ballot for voting:

PROPOSITION NO. ____ YES ____ NO ____

SECTION 4. The Bond(s) shall be issued upon such terms and conditions and in such form as the Finance Director finds to be in the best interests of the Borough, subject to approval by the Borough Assembly and laws.

SECTION 5. Sections 2 and 4 of this ordinance shall be effective only if and when the proposition described in Section 3 is approved by a majority of the qualified voters of the Borough voting on the proposition at the regular election on October 4, 2022.

SECTION 6. Sections 1 and 3 of this ordinance shall be effective immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2022.

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:	Bjorkman, Chesley, Cox, Derkevorkian, Ecklund, Elam, Hibbert, Tupper, Johnson
No:	None
Absent:	None

Introduced by:	Mayor
Date:	11/15/22
Hearing:	12/13/22
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-19-32

AN ORDINANCE DEOBLIGATING PREVIOUSLY APPROPRIATED PROJECT FUNDS OF $1,522,530 AND APPROPRIATING $659,783 OF THOSE FUNDS FOR THE EXPANDED SCOPE OF SOUTH PENINSULA HOSPITAL NUCLEAR MEDICINE/PHARMACY/INFUSION RENOVATION PROJECT

WHEREAS, the Kenai Peninsula Borough ("Borough") owns and provides for the operation of South Peninsula Hospital ("Hospital") through the South Kenai Peninsula Hospital Service Area, ("Service Area"); and

WHEREAS, the Borough has entered into an operating agreement with South Peninsula Hospital, Inc. ("SPHI") for the lease and operation of the Hospital and other medical facilities, to operate these medical facilities on a nonprofit basis in order to ensure the continued availability of the medical services to the service area residents and visitors; and

WHEREAS, through previous capital project appropriations and the ongoing master planning process, SPHI and the Borough have identified the nuclear medicine service line, the pharmacy renovation, and the infusion clinic as areas of service that are in immediate need for improvement.; and

WHEREAS, toward that end, the combining of these areas of work is both necessary and more effective in the execution of the projects; and

WHEREAS, approval of the requested funding will allow for the design and development of bid ready plans for the project, assistance with the certificate of need process through the Department of Health and Social Services, third party cost estimating, and other project related preliminary expenditures; and

WHEREAS, it is requested that a sole source award to Architects of Alaska, Inc. for the design services be approved by the Assembly; and

WHEREAS, the estimated total cost of the design portion of the project is $659,783; and

WHEREAS, South Peninsula Hospital Plant Replacement and Expansion funds of $567,530 are being deobligated from the previously appropriated FY21 Nuclear Medicine Project; and

WHEREAS, South Peninsula Hospital Capital Project funds of $400,000 are being deobligated from the previously appropriated FY23 Nuclear Medicine Project; and

WHEREAS, South Peninsula Hospital Capital Project funds of $555,000 are being deobligated from the previously appropriated FY22 Pharmacy Remodel Project; and

WHEREAS, funding for the expanded Nuclear Medicine/Pharmacy/Infusion Renovation Project will come from South Peninsula Hospital Capital Project funds previously appropriated and deobligated from the Nuclear Medicine and Pharmacy projects; and

WHEREAS, at its meeting on November 10th, 2022, the Service Area Board recommended approval of the appropriation of the funding for the project;

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

SECTION 1. That South Peninsula Hospital Plant Replacement and Expansion funds in the amount of $567,530 are deobligated from the previously appropriated Nuclear Medicine Renovation Project 491.81210.21SHA.49999.

SECTION 2. That South Peninsula Hospital Capital Project funds in the amount of $400,000 are deobligated from previously appropriated Nuclear Medicine Renovation Project 491.81210.23SHB.49999.

SECTION 3. That South Peninsula Hospital Capital Project funds in the amount of $555,000 are deobligated from previously appropriated Pharmacy Remodel Project 491.81210.22SHA.49999.

SECTION 4. That South Peninsula Hospital Capital Project funds in the amount of $659,783 are appropriated from Sections 2 and 3 de-obligated project funds to account 491.81210.23SPH.49999 for the SPH Preliminary Design and Development for Nuclear Medicine, Pharmacy and Infusion Renovation Project.

SECTION 5. That the appropriations made in Section 4 of this ordinance are of a project length nature and as such do not lapse at the end of any particular fiscal year.

SECTION 6. That this ordinance shall be effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2022.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

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Kenai Peninsula Borough
Purchasing & Contracting Department

MEMORANDUM

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

THRU: Mike Navarre, Mayor MN

FROM: John Hedges, Purchasing & Contracting Director JH
Brandi Harbaugh, Finance Director BH

DATE: November 3, 2022

RE: Ordinance 2022-19-32, Deobligating Previously Appropriated Project Funds of $1,522,530 and Appropriating $659,783 of those Funds for the Expanded Scope of South Peninsula Hospital Nuclear Medicine/Pharmacy/Infusion Renovation Project (Mayor)

South Peninsula Hospital (SPH), through previous capital project appropriations and the ongoing master planning process, has identified the nuclear medicine service line, the pharmacy renovation, and the infusion clinic as areas of service that are in immediate need of improvement. Toward that end, the combining of these areas of work is both necessary and more effective in the execution of the projects. The correction of building code compliance issues and improvement of inefficient operational processes can also be enhanced by the broader scope.

Currently, space requirements necessary to move forward with the Nuclear Medicine project require the displacement of the South Peninsula Hospital's Pharmacy; requiring expansion of the project scope, such that it will now include approximately 6600 square feet of renovation and shell space construction. Also included in the project scope is the development of an infusion clinic in the shelled space of the South Peninsula Hospital facility.

Approval of the requested funding will allow for the design and development of bid ready plans for the project, assistance with the certificate of need process through the Department of Health and Social Services, third party cost estimating, and other project related preliminary expenditures.

Once a fixed project scope has been established an additional appropriation will be brought forward to fund the construction portion of the project.

In November of 2021 Architects of Alaska, Inc. (AAI) was selected, by the Borough Purchasing and Contracting Department, through a formal RFP process, as the most qualified and responsive proposer for SPH's Master Planning Project. In conjunction with that process, SPH contracted with AAI to develop a concept for

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a new nuclear medicine service line. This combination of efforts led to the identification of the consolidation and expansion of the project scope.

At the request of the Purchasing and Contracting Department, AAI provided a quote of $628,283.00 for the design and development services of the SPH Nuclear Medicine/Pharmacy/Infusion Renovation Project. Due to the ongoing efforts of the master planning project, the firm's current experience with the facility and organization, and with the intent of expediting the project to address the immediate need for the improvements, it is requested that a sole source award to Architects of Alaska, Inc. for the design services be approved by the Assembly.

The estimated total cost of the design portion of the project is $659,783.00, which includes the design portion identified above and $31,500.00 for other administrative preliminary project costs such as: Project management; KPB administrative fee; advertising; and, other costs necessary to complete the design effort.

This ordinance deobligates SPH Plant Replacement and Expansion funds of $567,530 and SPH Capital Project funds of $955,000 from the previously appropriated Nuclear Medicine Renovation and Pharmacy Remodel Projects.

For these reasons, it is in the best interests of Borough to appropriate $659,783.00 to provide funding for the SPH Nuclear Medicine/Pharmacy/ Infusion Renovation Project and authorize the Sole Source award of the design contract to Architects of Alaska, inc.

Your consideration of the Ordinance is appreciated.

FINANCE DEPARTMENT
FUNDS/ACCOUNT VERIFIED

Account: 491.81210.23SHB.49999 **Amt:** $400,000
Account: 491.81210.21SHA.49999 **Amt:** $567,530

By: CG Date: 11/3/2022

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

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

FROM: Michele Turner, Acting Borough Clerk

DATE: December 13, 2022

RE: Ordinance 2022-19-32: Deobligating Previously Appropriated Project Funds of $1,522,530 and Appropriating $659,783 of those Funds for the Expanded Scope of South Peninsula Hospital Nuclear Medicine/Pharmacy/Infusion Renovation Project (Mayor)

Per KPB 22.40.050(F), the borough clerk, or the clerk's designee in his or her absence, has the authority to revise pending resolutions and ordinances prior to assembly action, by filling in any blanks in the legislation stating advisory board recommendations made concerning the legislation. This serves as our memorandum to advise the assembly of same.

Conforming to the advisory board's actions, the last Whereas clause has been updated to read:

"**WHEREAS,** at its meeting held on November 10, 2022, the Service Area Board recommended approval of the appropriation of the funding for the project;"

Thank you.

SOUTH KENAI PENINSULA HOSPITAL SERVICE AREA BOARD

VIRTUAL MEETING on ZOOM
Regular Meeting Minutes
November 10, 2022
Devony Lehner, Recording Secretary

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1. – 2. Call to Order / Roll Call

Chair Helen Armstrong called the meeting to order at 6:30 p.m. She requested a roll call.

Present: Helen Armstrong, Kathryn Ault, Willy Dunne, Roberta Highland, Judy Lund, Tim Whip, Amber Cabana, Ralph Broshes, Tim Daugharty

SPHI Staff: Ryan Smith, Angela Hinnegan, Anna Hermanson

3. Introduction of Guests:

- Mike Tupper (Kenai Peninsula Borough Assembly member)

4. Approval of Agenda:

Mr. Dunne noted that a report from him as the SAB's representative on the Facility Master Planning Committee should be a regular item on SAB agendas. There being no objections, this item was added to the agenda as item I under Reports, to be presented by Mr. Dunne.

5. Comments from the Audience:

6. Approval of minutes, Regular SAB meeting of October 13, 2022

MOTION: Ms. Highland moved/Ms. Lund seconded to approve the minutes of the SAB meeting of October 13, 2022, as presented.

DISCUSSION: No discussion.

VOTE: No objections.

MOTION: Passed unanimously.

7. Election of Officers:

MOTION: Mr. Dunne moved/Mr. Whip seconded that the following slate of SAB officers be elected:

- Chair – Helen Armstrong
- Vice-Chair – Roberta Highland
- Treasurer – Judy Lund
- Secretary – Kathryn Ault

DISCUSSION: No discussion.

VOTE: No objections.

MOTION: Passed unanimously.

8. Presentation – no presentation

9. Reports:

A) Committee of the Whole – Devony Lehner, Recording Secretary

Ms. Lehner provided the following summary of the Committee of the Whole meeting:

- The committee identified a slate of SAB officers to be nominated for election at the regular meeting.
- Ms. Highland led a review of the January 2022 version of the SAB member manual and encouraged SAB members to comment or ask questions.
- Mike Tupper, Kenai Peninsula Borough Assembly member, expressed his pleasure at being assigned as the liaison between the SAB and the assembly.
- Mr. Dunne asked Mr. Tupper whether there was an update on the land swap between the borough and the city, and Mr. Tupper will look into that. Ms. Highland commented that the SAB appreciates hearing a summary of the most recent assembly meeting, and Mr. Tupper agreed to start providing that at next month's SAB meeting. Ms. Armstrong asked Mr. Tupper to alert her if something comes up from the assembly that it would be useful for her to know, and Mr. Tupper agreed to do so.
- Ms. Highland mentioned that the two new buildings going up near the hospital are being built by Paul Raymond and by the Ninilchik Traditional Council.
- Ms. Armstrong shared that, thanks to public input and the responsiveness of the hospital administration, as of today the hospital has changed its mammogram policy. The public can now get mammograms at the hospital without a doctor's referral.

B) South Peninsula Hospital CEO – Ryan Smith, CEO

Mr. Smith shared the quarterly report that he had recently presented to the borough assembly. The following summary outlines that report. (The report itself is included with informational items in the December 8, 2022, SAB meeting packet.)

- A summary of the first quarter financials was shared. For the first quarter of FY 2023, Gross Patient Revenue was slightly higher than in the prior year and Net Income was slightly lower. One reason for the decrease in net income was that during the first quarter of FY 2023, SPH paid a $2500 inflationary bonus to all its employees. Charity Care & Bad Debt were lower than last year, Cash & Cash Equivalents for both this year and the prior year were about $42 million.
- A summary of 10-year financial results was shared, including (a) Salaries, Wages, & Benefits—which have been high during COVID; (b) Change in Net Position—which was affected by the CARES Act and other pandemic funding; (c) Cash & Equivalents versus Long-Term Bonds, Leases & Notes Payable—for SPH, the ratio o*f cash and equivalents* to *long-term debt* has gone from about *0.4* to *1*, cash to debt in 2014, to over *4.5* to *1*, cash to debt in FY 2023; this indicates that investments in hospital upgrades is appropriate at this time; and (d) South Kenai Peninsula Hospital Service Area and Plant Replacement Cash held at KPB—this graphic showed Service Area cash held by the borough and amounts of both obligated and unobligated Plant Replacement and Expansion Funds (PREF).
- Patient Satisfaction and Health Outcomes were summarized. These reflect the quality of care at SPH and patient satisfaction. SPH is rated as a 4-star hospital (there are no 5-star rated hospitals in Alaska). A number of methods are used nationally to extract rating values for quality of services and patient satisfaction.
- Alaska's Health Care Price Transparency Law was summarized. SPH is required by federal and state law to display in a consumer-friendly format specified shoppable services provided by the hospital. Failure to do so can lead to federal penalties. A variety of screenshots from the hospital's pricing website were shared.
- The Rotary Health Fair was mentioned; SPH and its volunteers did an amazing job. Around 900 labs

were drawn at the hospital before the fair.

- Retirements were highlighted, Marilyn Shroyer retired after 43 years.

In response to Mr. Dunne's question about salaries, wages, and benefits, Mr. Smith noted that the hospital's current collective bargaining agreement with employees runs through December 2023. Next year, the hospital will start negotiating a new 4-year contract. SPH is already seeing inflationary costs affecting negotiations between West Coast hospitals and nurses. Observed increases are daunting.

C) South Peninsula Hospital CFO – Ms. Anna Hermanson, interim CFO

Ms. Hermanson provided a financial report, including the following updates:

- SPH is at about 85 days cash-on-hand at the end of the quarter, compared to 92 days at the end of the previous month. Reduction was in part due to a transfer of 4.7 days cash to the borough in September because end-of-FY22 cash-on-hand exceeded 90 days; payment of the inflationary bonus also reduced cash. PFS Collections brought in $10.6 million in September, higher than their $9.3 million average.
- Looking at patient accounts receivable, SPH is at 52 days on average to collect AR; the target is 55 days, so the team performed well.
- Lines 15 and 16 of the balance sheet show the PREF increase due to the cash transfer to the borough.
- Medicare paid more to SPH than actual Medicare costs, so the state is likely to recoup those funds from SPH.
- Revenue was at $16.4 million, compared to $16.7 budgeted. The end of September was very busy; patient days were 8 percent above budget, with an average daily census of 15.5, including ops. That didn't translate into revenue—high-end patient revenue is generated by surgeries, for example, and inpatient surgeries were down significantly and below budget because some surgeons went moose hunting. The number of swing med days was high, and those are not high revenue generators. In other words, SPH was busy providing care, just not high-revenue-generating care.
- In September, ER was 20 percent above budget; infusion was 42 percent above budget—nearly record numbers for infusion during September; imaging and some of the clinics were down.
- Long Term Care was at budget, meeting its target for average daily census of 23 patients.
- The Medicaid deduction is shown at $2.9 million, which is where the $500,000 of dish funds (disproportionate share hospital funds) is recorded on the statement.
- Net Patient Services revenue was $8.8 million.
- Net operations loss was $1.1 million. In particular, salaries and wages were above budget due to the inflationary bonus paid in September (which totaled $1 million). That bonus was very well received by everyone and much appreciated, it definitely made the staff feel appreciated and happy to work here and support the community.
- General property taxes of $1.4 million were collected for SPH in September; year-to-date tax income is at 3 million, with about a million left to come in for the year.
- Net income for the month of September was $246,000, about $500,000 below budget.

In response to a question from Ms. Armstrong, SPH staff confirmed that Christmas bonuses have in the past been given as Homer Bucks. Use of Homer Bucks is greatly appreciated by the Homer Chamber of Commerce because of how that supports local businesses. Additional businesses have wanted to join the Chamber so that they too could offer Homer Bucks and attract business from the community.

D) SPHI Board of Directors – Beth Wythe

Ms. Wythe was not present.

E) SAB Representative to October 26, 2022, Board of Directors Meeting – Judy Lund

Ms. Lund found the presentation on nuclear medicine absolutely fascinating—the difference in

information obtained from x-rays versus nuclear medicine was mind boggling. X-rays take a picture looking into the body, while nuclear medicine takes a picture looking out using just a tiny bit of material, and it shows a whole variety of different things. She hopes SPH can become up-to-date in offering nuclear medicine. The BOD also talked about hospital efforts related to managing sepsis.

F) Kenai Peninsula Borough Assembly Representative – Mike Tupper

Mr. Tupper had nothing to add at that time but would be prepared to summarize assembly business at the next meeting.

G) SAB Treasurer – Judith Lund

Fiscal year 2023 is just beginning, and the SAB will soon be catching up on the budget.

H) SAB Chair – Helen Armstrong

Ms. Armstrong emphasized her thanks to everybody for doing an awesome job while she was out after her heart surgery. She also expressed appreciation for the meeting she had with Ms. Hinnegan and Ms. Hermanson last week about the proposed resolution and other topics. It was a really good meeting.

I) Facility Master Planning (FMP) Steering Committee – Willy Dunne

The FMP steering committee met earlier today; it's been meeting for 6 or 8 months now. Some of the draft ideas about facilities and parking are now on paper, including construction of a medical office building and reconfiguring some of the existing hospital space to expand surgery to meet 10-year needs. The general idea is to locate parking expansion on the west side of Woodard Creek—on the east side of Karen Hornaday Park where a gravel overflow parking area is now located. Today, John Hedges from the borough provided a summary of key findings and an overview of goals, as well as ideas on working together to present these to the assembly and to voters; the focus was on high level planning rather than specifics. In general, the final product will reflect an expansion of the campus and consolidation of all external clinics into one office space attached to the hospital—separate from, but attached to, the hospital. The current idea is to locate that on the west side. Expanding Long-Term Care was also discussed, reflecting the 10-year growth needs of the hospital; Long-Term Care is predicted to increase by 46 percent, one of the biggest increases in needs. LTC currently has 28 beds, a 45 percent increase would be over 40 beds.

A representative from the borough's planning department attended today's meeting, as did BOD President Kelly Cooper and KPB Assembly Member Lane Chesley. Mr. Dunne put some things on the radar, like electric vehicle chargers for employees and maybe incorporating solar panels into any new construction. The hospital has a tremendous site for solar collection, with over 180 degrees to collect solar energy—more than that in the summertime.

The committee also discussed some of the upgrades that will be needed sooner rather than later, like the pharmacy and parking. Immediate needs may be addressed before major expansion construction.

One concept Mr. Dunne highlighted, which was mentioned by John Hedges, was having 5-year capital improvement plans in the budget; these 5-year plans could be reviewed and updated annually. They could be brought to the Service Area Board and the borough assembly even before review of the annual budget, because annual budgets are often driven by immediate capital needs. He liked the concept of looking forward and having capital plans reviewed before the budget. He also appreciates the borough's proposal to look at these more closely ahead of budget time.

Mr. Smith added that the FMP steering committee has been working with Architects Alaska on six goals. The contractor has now developed a report of their findings, which Mr. Hedges summarized today. But the devil is in the details, and over time, Mr. Hedges will operationalize the "giant elephant" 10-year

plan into bite-sized chunks so that the hospital can start really working on some things. "We have a lot of work cut out for us."

Mr. Dunne added that there will be a final draft, but that won't necessarily be released to the public right away. First, everybody on the steering committee and all the other players, including the SAB, would have a chance to provide input. Mr. Smith hopes the final report will be available in the next couple of months.

In response to a question, Mr. Smith explained that the SPH has been working with the city for several years in looking at options for creating hospital parking across Woodard Creek, which would involve using city land. There's a lot of "emotive content" there to unpack, but the goal would be actually to improve Karen Hornaday Park, for example, road access, sewer and water, and other amenities. There's a lot yet to be worked out, but considering the "art of the possible," where else could parking be expanded? The hospital campus can't expand to the north, south, or east, so on the west offers the only opportunity to expand parking. Ongoing discussions also include what would happen to buildings such as the Homer Medical Clinic when their functions move elsewhere. SPH also has buildings that it would want to raze (for example, a 4-plex), and their services would be moved into vacated buildings.

Mr. Dunne added that the city administration has been very open to negotiations. Ms. Ault has heard the comment that whatever is planned, "Don't touch Karen Hornaday." Mr. Dunne noted that the FMP steering committee is sensitive to the need to ensure that the public understands and accepts proposed ideas. He mentioned that he'd brought up the idea of creating wildlife-friendly bridges across Woodard Creek Canyon. Improving trails is also something that the public would like to see.

10. Unfinished Business:

A) All Things Recovery update – Willy Dunne

Mr. Dunne noted that this is an ongoing discussion rather than unfinished business. It will be discussed again in January, as far as funding for ATR. He's had discussions with Ms. Highland and Ms. Armstrong about goals to accomplish and measurable outcomes. This will be discussed in more detail at next month's meeting, and there will be a related presentation from the Mat-Su Opioid Task Force. Mr. Dunne reiterated that he's a volunteer with All Things Recovery and is involved with some of its work groups. Some of these groups did outreach at the Rotary Health Fair, which was really good. The Mat-Su OTF has identified some concrete and specific goals, so it will be useful to hear from Michael Carson, its director, and to learn what they're do ing; we can talk about that next month in more detail.

B) MAPP (Mobilizing for Action through Planning and Partnerships) – Roberta Highland

Ms. Highland wanted to follow up on the presentation Ms. Ferraro gave on MAPP at last month's Committee of the Whole meeting. Ms. Highland asked if there were any comments or ideas or suggestions, and mentioned that it made sense to discuss these before MAPP funding is considered at the January meeting; MAPP will give a presentation at the January meeting.

Mr. Daugharty asked whether a city grant was awarded to administer this year's community health needs assessment (CHNA). Mr. Dunne reported that the city used a "Healthy and Equitable Communities" grant it had received in order to hire a Pennsylvania contractor for $30,000 to do this year's CHNA. Mr. Daugharty asked if that meant that MAPP would not need funding to accomplish this year's CHNA. Ms. Highland noted that years ago, MAPP realized that doing the CHNA took all its time and energy, and there were many other directions and focuses that MAPP wanted to work on. MAPP realized that it could not do all things, so since then, it has continued doing the general work that it's been doing for years. She noted that these are the kinds of questions that Ms. Ferraro would be better able to answer.

Mr. Dunne provided the following background: The Service Area Board originally proposed funding for MAPP as a mechanism to perform the Community Health Needs Assessment. This process is in

conjunction with the hospital, which is required to do this by the IRS. The second Community Health Needs Assessment was done in 2013, the third in 2016. So MAPP actually did three. [Recording Secretary's note: "Mobilizing for Action through Planning and Partnership" is a national model developed by the National Association of County and City Health Officials in collaboration with the Centers for Disease Control and Prevention.[1]] Mr. Dunne continued that in 2020, SPH contracted with Agnew-Beck, an Anchorage consultant, to accomplish the 2020 CHNA, which SPH paid for out of its operations budget. So the SAB money originally was earmarked or intended for providing the CHNA. After completing the CHNAs, MAPP developed Community Health Improvement Plans (CHIPs)[2] laying out strategic goals and tasks to address community health needs identified in the assessment.

Mr. Tupper asked whether now that MAPP is no longer doing the CHNAs it has any deliverables. Ms Highland responded that Ms. Ferraro would be better able to explain this, but it's her understanding that every year, MAPP and its partners decide on a direction and focus, and then they pursue that focus [implement strategies based on that focus]. Then they re-evaluate and decide on another focus [see graphic in footnote below]. She added that stakeholders involved in MAPP have expressed to her that they benefit greatly from the partnership, on which Ms. Ferraro gave a very inclusive report last month. She then asked Ms. Lehner to note any questions asked at this meeting so that Ms. Ferraro could respond to them. Ms. Lehner mentioned that she had recorded all the presentations at October's Committee of the Whole meeting, including Ms. Ferraro's, and is separating them so that each can be individually uploaded to YouTube. Ms. Lund added that MAPP will also be making a presentation in January.

Mr. Tupper agreed that it's nice that people feel like MAPP is useful to them, but he wondered if there's a way to measure outputs so that SAB can track what MAPP is producing with the grant money it receives from the SAB. Ms. Hermanson pointed out that that information was part of the report that Ms. Ferraro gave at the October Committee of the Whole meeting, as well as in the report that Hannah Gustafson, MAPP coordinator, gave at SAB's regular September meeting. Ms. Armstrong added that some of these discussions will be appropriate when SAB considers MAPP's request for another grant. Ms. Highland reiterated that it would be beneficial to get any questions answered before the January meeting so that SAB members would have answers before considering grant approval. Ms. Lund asked if MAPP is scheduled to be at the December meeting to answer questions, and Ms. Highland answered that that's something SAB could request.

Mr. Daugharty asked whether SAB puts out an RFP related to funds it provides [to entities like MAPP]. Ms. Highland answered that SAB awards **grants**; interested parties request funds from the SAB. She added that a few years ago, SAB developed a grant application process for applicants to follow.

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1 The MAPP (Mobilizing for Action through Planning and Partnership) tool was developed by the National Association of County and City Health Officials in collaboration with the Centers for Disease Control and Prevention. ...The MAPP work group vision is "Communities achieving improved health and quality of life by mobilizing partnerships and taking strategic action." MAPP is targeted to communities, and its goal is to equip them with a structured framework for planning health programs. The MAPP process is centered on community organizing and partnership development and includes four assessments: assessing community themes and strengths, assessing the local public health system, assessing the community's health status, and assessing the forces of change. Next, MAPP involves the identification of strategic issues, the formulation of goals and strategies, and a continuous cycle of planning, implementation, and evaluation [downloaded on 11/29/22 from https://www.ncbi.nlm.nih.gov/books/NBK221247/#ddd00231].



A 4-page MAPP factsheet including the graphic at right can be downloaded at https://www.naccho.org/uploads/downloadable-resources/Programs/Public-Health-Infrastructure/MAPP-factsheet-system-partners.pdf.

2 A community health improvement plan (or CHIP) is a long-term, systematic effort to address public health problems based on the results of community health assessment activities and the community health improvement process. A plan is typically updated every three to five years [downloaded on 12/3/22 from https://www.cdc.gov/publichealthgateway/cha/plan.html].

Mr. Dunne added that MAPP differs from Kachemak Bay Family Planning Clinic in that it is the hospital that applies for the grant, and then the hospital contracts with a private vendor—currently G Squared, whose Principal is Hannah Gustafson—to carry out its objectives. The contractor gets paid through the borough, which gives the money to the hospital, which then pays G Squared; SAB is not actually contracting directly with G Squared. MAPP is a project of the hospital, so that $45,000 grant is awarded to the hospital. The hospital pays that money to G Squared to carry out the program. Mr. Smith added that the hospital is just a conduit for the Service Area. Mr. Dunne then clarified that over a certain dollar amount, the borough would require an RFP if it were contracting G Squared, but because the SAB funding is considered a grant, it doesn't go through the RFP process. He noted that there have been several different MAPP contractors over the years; Ms. Gustafson has coordinated MAPP for 4 or 5 years. Ms. Lehner mentioned that Megan Murphy was the first MAPP coordinator. She did it for several years.

Ms. Hermanson had on her laptop a copy of MAPP's September 8, 2022, report and presentation, which was presented to SAB at its September 8 meeting and begins on page 8 of SAB's September 8 packet. She read aloud some of the topics covered in that report, including names of everyone involved and overall priorities for the coming fiscal year—which will focus on data collection and report generation for the community health needs assessment, as well as offering community meetings in person again and establishing a good format for hybrid meetings. The report also shows budget and program details.

Ms. Highland then asked for the wishes of the board on discussing MAPP at the December meeting or waiting until January. She suggested that because the January meeting already has a large agenda, answering questions about MAPP would make more sense at the December meeting. Mr. Dunne wanted it made clear to G Squared (and the hospital) that reports for MAPP and All Things Recovery should be treated separately and submitted as two different products; otherwise it gets confusing because both projects are handled by the same contractor. Ms. Highland noted that SAB will know the amounts being requested at its January meeting, and she again asked if the board would like Ms. Ferraro to attend the December meeting. Mr. Dunne agreed that there's still some ambiguity and some questions, as well as a need to be clear on what kind of measurable outcomes and deliverables SAB could expect. Ms. Cabana also agreed that having Ms. Ferraro present would be a good idea.

C) Memorandum of Understanding (MOU) with SPH, Inc. for printing of SKPHSAB meeting packets – Helen Armstrong

Ms. Armstrong introduced the draft MOU between SAB and SPH for printing services, which SPH would provide to SAB at a cost of 15 cents per page for black and white copies and 25 cents per page for color, whether pages were printed single- or double-sided.

MOTION: Mr. Daugharty moved/Ms. Highland seconded to approve the MOU with SPH, Inc. for printing of SKPHSAB meeting packets.

DISCUSSION: Ms. Lehner noted that she had found one typo, shown below—"documents" is duplicated in the sentence, so the first use of the word is crossed out. She asked to whom to send the corrected version, and Ms. Hermanson answered to send it to her. There was no further discussion.

Roles and responsibilities

• SKPH Service Area Board is responsible for supplying ~~documents~~ to SPH Executive Administrative Assistant printing requests, documents, and instructions with a minimum of 3 days' notice

VOTE: No objections.

MOTION: Passed unanimously.

11. New Business:

A) South Kenai Peninsula Hospital SAB Resolution 2022-09 Approving the Combination of Nuclear Medicine and Pharmacy Renovation Projects and Expanding the Scope to include the Infusion Clinic

Ms. Armstrong introduced SAB Resolution 2022-09 and read the title to the board. She noted that this resolution has not yet gone to the BOD because its next meeting will not be until December. The language in the resolution reflects anticipation of BOD approval.

MOTION: Ms. Highland moved/Ms. Lund seconded that SAB adopt Resolution 2022-09 Approving the Combination of Nuclear Medicine and Pharmacy Renovation Projects and Expanding the Scope to include the Infusion Clinic

DISCUSSION: Mr. Dunne noted that in fiscal year 2022, $555,000 was obligated for the pharmacy remodel; he asked whether any of that work was begun, and Mr. Smith answered no; those funds are still obligated in Service Area funds. Mr. Dunne also asked for clarification on the full amount requested for nuclear medicine. Ms. Hermanson explained that in the overall budget, the two projects were split out, and some of them were to be covered by Service Area funds and some by PREF monies so that all the needed capital items could be funded. None of these monies were spent. Now the hospital needs to move these three things, and it makes sense to do them together spacewise. It makes sense to move nuclear medicine into the pharmacy, which is right across the hallway from imaging, and then to relocate the pharmacy down into the shell space and put infusion next to it. Right now, during chemotherapy treatments, nurses are having to transport material down the hill to patients because immunocompromised patients were moved out of the hospital during COVID. It makes more sense in terms of best practices for infusion patients to be in the hospital and near the pharmacy.

Doing all of these things requires a certificate of need; this necessitates paying for a design and getting a certified cost estimate in order to submit a certificate of need request. Mr. Smith confirmed that additional obligated funds will later be brought back into the process after there's a design. Ms. Hermanson clarified that the design process is needed before construction estimates can be developed. Mr. Smith added that design fees are usually 10-15 percent of the total project cost. He listed numerous functional and logistical concerns and structural and cost constraints that, when considered together, led to identifying this as the best approach to address needs related to nuclear medicine, infusion therapy, and the pharmacy remodel. Other pots of money that are still out there will be combined later to cover the roughly $6 million cost for constructing the whole project to get nuclear medicine upstairs, the pharmacy down here, and immunocompromised patients back into the hospital—the shell space is a prime location for infusion, where patients can enjoy views and be right next to the pharmacy. John Hedges and Brandi Harbaugh helped draft how SPH could put the monies together to achieve the design piece needed to get a certified cost estimate and submit a certificate of need. The certificate of need has a cost trigger, which Ms. Hermanson thought was about $1.5 million. Below that amount, no certificate of need is required. Mr. Smith clarified that because SPH did not request a certificate of need when it conducted a major expansion a while ago, it made an agreement with the state that it would request a certificate of need for any future work done in the shell space, regardless of cost. The current arrangement is in that context.

Mr. Whip then asked whether this plan fits into the master plan discussed earlier. Mr. Smith confirmed that it does, while at the same time noting that the hospital has been working with Dr. Knapp

for the last 3 years in trying to bring nuclear medicine here. Discussions about nuclear medicine began before the hospital got involved in the master facility planning process, but the hospital has never been able to find a spot for it. So a location for nuclear medicine was rolled into the facility master planning process, along with requirements for the pharmacy and infusion. So Mr. Dunne confirmed with Mr. Smith that $650,000 is for planning, and then another amount will be needed for actual construction and to move facilities. Mr. Smith confirmed that although total project costs are expected to be about $6 million, that won't be known until SPH pays the design fees to get certified cost estimates, and then that estimate can be submitted to the state as part of the certificate of need.

VOTE: Ms. Armstrong called for a voice vote. The following SAB members voted YES to approve SKPHSAB Resolution 2022-09: Ralph Broshes, Amber Cabana, Tim Daugharty, Tim Whip, Judy Lund, Roberta Highland, Willy Dunne, Helen Armstrong, and Katherine Ault; there were no NO votes.

MOTION: Passed unanimously. Ms. Armstrong reiterated that the approved resolution is contingent upon approval by the Finance Committee and the Board of Directors.

12. Informational Items included in the Packet:

- Approved minutes of the September 28, 2022, BOD meeting
- SIM (Sequential Intercept Model) Mapping Workshop

13. Comments from the Audience – there were no comments

14. Comments from Board/Staff:

- Board members discussed how and when members wanting printed copies of the packet could pick them up from the hospital. The best solution is to pick them up when arriving for the actual meeting.
- Board members expressed interest in hearing Dr. Knapp provide an overview on nuclear medicine. [*Secretary Lehner's addendum: an excerpt from the SAB minutes of March 10, 2022, summarizing the presentation on nuclear medicine made at that meeting by Dr. Knapp is included in informational items included in the packet for the December 8, 2022, SAB meeting.*]

15. Future Agenda Items / Reminders:

- November/December BOD meeting – Willy Dunne
- Continuation of MAPP discussion.
- Presentation by Mr. Michael Carson, Chair, Mat-Su Opioid Task Force

16. Adjournment:

The meeting was adjourned at 7:54 pm.
Respectfully submitted,

_____
Devony Lehner, SAB Recording Secretary

Minutes Approved: _____, 2022

Introduced by:	Johnson, Cox, Hibbert
Date:	11/15/22
Hearing:	12/13/22
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-19-33

AN ORDINANCE AMENDING THE DEPUTY BOROUGH CLERK JOB DESCRIPTION, APPROVING A FULL-TIME RECORDS MANAGER POSITION AND APPROPRIATING NECESSARY FUNDS FOR THE POSITION

WHEREAS, the Borough Clerk has the primary responsibility for the development, maintenance and operation of the borough's records management system, and supervises the Records Division and Records Manager; and

WHEREAS, Resolution 89-008 deleted the full time Records Manager position and assigned administrative duties of the Records Division to the Clerk's Office staff; and

WHEREAS, Resolution 98-004 established the Deputy Borough Clerk serve as the Records Manager and supervisor of the Records Division, remaining under the direct supervision of the Borough Clerk; and

WHEREAS, the Deputy Borough Clerk has been charged with devoting a third of normal work hours to the role of Records Manager; and

WHEREAS, with the increasing work load and duties of the combined Deputy Borough Clerk / Records Manager position, the Borough Clerk has determined this position should be divided into two full time positions; and

WHEREAS, the Deputy Borough Clerk has been charged with a more involved role in the election process as well as the administration of all borough board and commission appointments; and

WHEREAS, the Records Manager has been charged with the full time administration of public records requests and incorporating borough electronic records into the administration of the borough's retention schedule and archiving processes; and

WHEREAS, this ordinance appropriates $58,081 from the General Fund fund balance to provide the necessary funds to fund the Records Manager position for the remainder of the fiscal year;

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

SECTION 1. That the attached job descriptions for the full time Deputy Borough Clerk and full time Records Manager are approved and incorporated by reference.

SECTION 2. The salary and benefits of the Deputy Borough Clerk remains within the limits of the pay and benefits plan.

SECTION 3. The salary and benefits of the Records Manager shall be within the limits of the pay and benefits plan.

SECTION 4. That funds in the amount of $58,081 are appropriated from the General Fund balance to the accounts listed below to provide the necessary funds to fund the Records Management Position for the remainder of the fiscal year:

General Fund Assembly Records:			
100.11140.00000.40110	Regular Wages	$	31,655
100.11140.00000.40221	PERS		6,964
100.11140.00000.40322	Life Insurance		47
100.11140.00000.40210	FICA		2,765
100.11140.00000.40410	Leave		4,490
100.11140.00000.40321	Healthcare		10,653
100.11140.00000.43220	Car Allowance		1,206
100.11140.00000.43110	Cell Phone		301
		$	**58,081**

SECTION 5. That this ordinance shall be effective immediately upon enactment.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY *, 2022.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

DocuSign Envelope ID: 66F3733C-7B9F-4B93-8A59-A359B2D63E88

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

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

THRU: Brent Johnson, Assembly President BJ
Tyson Cox, Assembly Vice President JRC
Justen Huff, HR Director JH
Brandi Harbaugh, Finance Director BH

FROM: Johni Blankenship, Borough Clerk (JB)
Michele Turner, Deputy Borough Clerk (MT)

DATE: November 3, 2022

RE: Ordinance 2022-19-33 Amending the Deputy Borough Clerk Job Description, Approving a Full-Time Records Manager Position and Appropriating Necessary Funds for the Position (Johnson, Cox)

The Deputy Borough Clerk position is a unique position in that it also serves as the Records Manager for the Kenai Peninsula Borough (Borough). This dual-duties position for the Deputy Borough Clerk amounts to allocating two-thirds time as Deputy Borough Clerk and one-third time as Records Manager.

Splitting time between these two job functions has been an increasing burden and growing challenge over the last few years. The Deputy Borough Clerk position has taken on the task of the noticing and appointment process for all boards and commissions in the Borough. At the same time, the Records Manager position launched two new software solutions and is getting prepared for implementing electronic records in its archival software. In addition, public records requests continue to increase year-over-year and general oversight of the public records request process requires significant personnel time. Adding these tasks to an already stretched-thin Deputy Borough Clerk position has become too much for one person to handle.

This ordinance will split the Deputy Borough Clerk position and Records Manager Position into two full-time positions within the Clerk's Office and appropriates necessary funds to fund the Records Manager position for the remainder of FY23.

Your consideration of the ordinance is appreciated.

FINANCE DEPARTMENT
FUNDS/ACCOUNT VERIFIED

Acc 100.27910 **Amt:** $58,081

By: CG Date: 11/3/2022

Kenai Peninsula Borough
Salary Schedule
Effective July 1, 2022

Classifed

40 hour

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12
G	18.47	19.16	19.86	20.25	20.66	21.07	21.49	21.92	22.36	22.81	23.27	23.73
H	19.76	20.50	21.25	21.67	22.11	22.55	23.00	23.46	23.93	24.41	24.89	25.39
I	21.14	21.94	22.73	23.19	23.65	24.13	24.61	25.10	25.60	26.11	26.64	27.17
J	22.62	23.47	24.33	24.81	25.31	25.81	26.33	26.86	27.39	27.94	28.50	29.07
K	24.21	25.12	26.03	26.55	27.08	27.62	28.17	28.74	29.31	29.90	30.49	31.10
L	25.90	26.87	27.85	28.41	28.97	29.55	30.14	30.75	31.36	31.99	32.63	33.28
M	27.71	28.76	29.80	30.39	31.00	31.62	32.25	32.90	33.56	34.23	34.91	35.61
N	29.65	30.77	31.88	32.52	33.17	33.83	34.51	35.20	35.91	36.62	37.36	38.10
O	31.73	32.92	34.12	34.80	35.49	36.20	36.93	37.67	38.42	39.19	39.97	40.77
P	33.95	35.23	36.50	37.23	37.98	38.74	39.51	40.30	41.11	41.93	42.77	43.62
Q	36.32	37.69	39.06	39.84	40.64	41.45	42.28	43.12	43.98	44.86	45.76	46.68
R	38.87	40.33	41.79	42.63	43.48	44.35	45.24	46.14	47.06	48.00	48.96	49.94

56 hour

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12
K	17.00	17.64	18.28	18.65	19.02	19.40	19.79	20.19	20.59	21.00	21.42	21.85
L	18.19	18.88	19.56	19.95	20.35	20.76	21.17	21.60	22.03	22.47	22.92	23.38
M	19.47	20.20	20.93	21.35	21.78	22.21	22.66	23.11	23.57	24.04	24.52	25.01
N	20.83	21.61	22.40	22.84	23.30	23.77	24.24	24.73	25.22	25.73	26.24	26.76
O	22.29	23.12	23.96	24.44	24.93	25.43	25.94	26.46	26.99	27.53	28.08	28.64
P	23.85	24.74	25.64	26.15	26.68	27.21	27.75	28.31	28.87	29.45	30.04	30.64
Q	25.51	26.47	27.43	27.98	28.54	29.11	29.70	30.29	30.90	31.51	32.14	32.79
R	27.30	28.33	29.36	29.94	30.54	31.15	31.77	32.41	33.06	33.72	34.39	35.08

Management

The amounts below were authorized through Ordinance 2021-19 June 1, 2021

Level	Minimum	Mid point	Maximum
1	63,959	76,878	89,797
2	68,423	82,245	96,067
3	73,190	87,974	102,758
4	78,417	93,266	110,100
5	83,961	100,753	121,736
6	89,820	110,088	130,356
7	96,158	117,914	139,669

449

Deputy Borough Clerk

Service Type: Legislative, Level 3

Definition: Under the general direction and supervision of the borough clerk, the deputy borough clerk assists with all office functions, acts as computer systems administrator, and assists in the administration of local elections.

Minimum Qualifications: Degree in Public Administration or related field and four years' experience in municipal government, including two years' supervisory experience. Experience may be substituted for educational requirements. Advanced knowledge of microcomputers and networking systems; excellent English, spelling, punctuation and grammar skills; and ability to communicate clearly and concisely, orally and in writing. Ability to work a varied schedule required. Familiarity with legislative and election procedures preferred.

Essential Functions:

1. Attends all Regular and Special Assembly meetings and prepares minutes. Responsible for final version of resolutions and ordinances as permanent record, in addition to codification oversight.

2. Maintains computer index subject filing system, i.e. legislative history.

3. In the absence of the Borough Clerk, supervises clerical and/or service operations of the office.

4. Assists in the supervision and administration of all Regular and Special municipal elections. Assists with state elections as requested.

5. Acts as administrative staff to the Assembly's Legislative Committee with duties that include tracking of state and federal legislation and preparation of the borough's official annual legislative priorities book for distribution to state and federal legislators.

Other Functions:

1. Serves as acting borough clerk in the absence of the clerk.

2. Serves as computer systems administrator for department.

3. Assists in the recruitment and assignment of clerical personnel. Trains new personnel in general functions and specific duties.

4. Maintains voluminous and complex administrative and general reports; reviews various reports and forms for completeness.

5. Composes ordinances, resolutions and accompanying memoranda for assembly action.

6. Renders administrative assistance to the Borough Assembly.

7. Administers the appointment process for all Borough boards and commissions, including the preparation of the notice of vacancies, maintaining various filing periods and forwarding applicants to the Mayor/Assembly as appropriate. Administers/updates the boards and commissions online membership rosters and online applications.

8. Performs research for public, borough staff and assembly.

9. Acts as voter registrar, voter registrar trainer and notary public.

10. Attends municipal clerk training sessions while working for professional certification with International Institute of Municipal Clerks (IIMC). Once certification attained, participates in continuing education as appropriate.

11. Performs other specialized and complex duties as assigned.

Physical Demands: While performing the duties of this job, the employee is regularly required to communicate orally and to use hands dexterously to operate office equipment. The employee frequently is required to sit; and occasionally required to stand, walk, and reach with hands and arms. The employee must occasionally transport up to 30 pounds. Specific vision abilities required include close vision and the ability to adjust focus. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Position Description Record:

Date Updated: 11.07.2022

Reason for Update: Revised

Date Updated: 11.06.2019

Reason for Update: Reformatted

Date Updated: 10.2008

Reason for Update: Revised

Date Updated: 11.2007

Reason for Update: Reviewed & Revised

Records Manager

Service Type: Legislative, Level 3

Definition: Under the general direction and supervision of the borough clerk, the records manager supervises records management staff, administers the procedures and processes of the borough's records management program, as well as manages the records center facility.

Minimum Qualifications and Required Qualifications: High School Diploma or G.E.D. required. Four years' experience in municipal government, including two years supervisory experience; or any equivalent combination of education, training and experience which provides the required knowledge, skills and abilities to perform the essential functions of the job.

- Statutory and regulatory requirements pertaining to records management. Familiarity with records management requirements, guidelines, and procedures.
- Laws pertaining to privacy and security of confidential records.
- Microsoft Office programs and advanced knowledge of computers, microfilming equipment and record management software.
- Experience with writing, developing and implementing records retention schedules.
- Ability to compute, maintain and prepare complex records correctly, insuring confidentiality.
- Ability to deal with citizen and department inquiries tactfully, courteously, and in a professional matter.
- Ability to read and interpret documents such as borough code, state statues and various regulations as applicable.
- Research and analyze records management issues and problems.

- Analyze open records request and fill request in accordance with borough code, Alaska Records Act as well as other applicable laws and regulations.

- Ability to prepare and analyze a variety of reports, administer and prepare the records division's annual budget.

- Ability to make decisions based on available data/criteria, laws and regulations, or borough policy.

Essential Functions:

1. Oversee borough records from creation and preservation through disposal for various mediums, including but not limited to paper, electronic, microfilm, microfiche, etc.

2. Develop, maintain, verify and evaluate existing systems, as well as the establishment of new systems, while adhering to borough code, state statutes and other related regulations.

3. Directly supervises the records management section personnel including participating in the hiring of staff, assigning specific duties, completing and presenting performance evaluations, and undertaking any disciplinary actions necessary.

4. Trains staff members in all borough departments on procedures for use of records computer system. Consults data processing in development, design and operation of computer applications. Maintains user documentation. Responds to technical questions regarding system's functions.

5. Ensures records are easily accessible and available to the departments and public as needed. Administers the public records request software, record request submissions and processes.

6. Establish procedures to economically combine, simplify or eliminate borough forms to the extent possible without compromising administrative efficiency. Consult with each department head and determine informational/form needs of each department to reduce the burden on both citizens and businesses by minimizing the number of forms which each shall be required to complete and return to the borough.

Other Functions:

1. Maintains voluminous and complex administrative and general reports; reviews various reports and forms for completeness.

2. Prepares and administers records management annual budget and presents same to the assembly. Reviews and approves purchase orders, invoices and timesheets.

3. Performs research for public, borough staff and assembly.

4. Attends records training sessions working for professional certifications with local and national records and archivist associations. Participates in continuing education as appropriate.

5. Prepares and presents an annual report to the assembly a detailed description of all records series to be removed from active departmental files to the centralized records center. Also informs the assembly of all obsolete records destroyed during the preceding year.

6. Performs other specialized and complex duties as assigned and outlined in borough code.

Physical Demands: While performing the duties of this job, the employee is regularly required to communicate orally and to use hands dexterously to operate office equipment. The employee frequently is required to sit; and occasionally required to stand, walk, and reach with hands and arms. The employee must occasionally transport up to 30 pounds. Specific vision abilities required include close vision and the ability to adjust focus. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Position Description Record:

Date Updated: 11.07.2022

Reason for Update: New

Introduced by: Mayor, Req. Borough Clerk
Date: October 11, 1988
Action: Adopted
Vote: Unanimous

KENAI PENINSULA BOROUGH

RESOLUTION 88-88

CERTIFYING RESULTS OF THE REGULAR BOROUGH ELECTION OF OCTOBER 4, 1988

WHEREAS, Canvass Board of the Kenai Peninsula Borough met on October 10 and 11, 1988 and tallied the votes of Questioned and Absentee ballots together with votes counted on election night which are set out below:

BOROUGH ASSEMBLY

District 2, Seat B, 3 Yr. Term

McLANE, Stan A. "Sam"	990
WAISANEN, Sharon U.	961

District 3, Seat E, 3 Yr. Term

GLICK, Betty J.	1,056

District 4, Seat B, 3 Yr. Term

KEENE, Brentley D.	992

District 4, Seat C, 3 Yr. Term

DIMMICK, Marilyn	565
NYE, Willy	167
POINDEXTER, Charles "Al"	903

PROPOSITION

"Shall the Kenai Peninsula Borough design, construct and equip an elementary school in Seward, Alaska in the estimated amount of $9 Million with the funding to be provided in part by transferring $4 Million in unused bond funds from other completed school projects by amending Ordinances 82-51, 83-47 and 85-51?

YES	3,499
NO	1,405

SCHOOL BOARD

2 Seats, 3 Yr. Terms

FISCHER, Joyce	2,405
GJOVIG, Gwen R.	1,492
KESSLER, Wayne	2,210
MULLINS, Debra K.	1,920
SCHWARTZ, Katherine A.	2,005

BEAR CREEK FIRE SERVICE AREA

Seat C, 3 Yr. Term

FULTZ, Clara M.	169
KOHUT, Bernard N.	69

Seat D, 3 Yr. Term

SMITH, Dewey J.	180

EAST KENAI PENINSULA ROAD MAINTENANCE SERVICE AREA

Seat C, 1 Yr. Term

JONES, RICK Elected Write-in	14
Other Write-ins	121

Seat E, 3 Yr. Term

SKOGSTAD, KAREN Elected Write-in	5
Other Write-ins	92

CENTRAL PENINSULA EMERGENCY MEDICAL SERVICE AREA
Seat E, 3 Yr. Term

THIBODEAU, Emery 971

URBAN, David 637

CENTRAL KENAI PENINSULA ROAD MAINTENANCE SERVICE AREA
Seat E, 3 Yr. Term

COOK, John E. 1,125

KALIFORNSKY FIRE SERVICE AREA
Seat A, 3 Yr. Term

FAIRCHILD, John 370

Seat B, 3 Yr. Term

THIBODEAU, Emery 370

RIDGEWAY/STERLING FIRE SERVICE
Seat E, 3 Yr. Term

WILDER, Darlene M. 499

NIKISKI FIRE SERVICE AREA
Seat A, 1 Yr. Term

LEIGHTON, Mae M. 300

Seat C, 1 Yr. Term

WILLIAMS, PRESTON 7
Elected Write-in

Other Write-ins (1 ea.) 18

Seat D, 3 Yr. Term

WILLIAMS, PRESTON 21
Elected Write-in

Other Write-ins (1 ea.) 13

Seat E, 3 Yr. Term

HAGEN, Scott B. 259

NORTH PENINSULA RECREATION SERVICE AREA
Seat C, 3 Yr. Term

HODGINS, Audrey 333

Seat D, 3 Yr. Term

JOHNSON, Ron 3
Elected Write-in

Other Write-ins 11

NORTH KENAI PENINSULA ROAD MAINTENANCE SERVICE AREA
Seat C, 1 Yr. Term

BROWER, Sharon M. 309

Seat E, 3 Yr. Term

JOHNSON, Ron 286

ANCHOR POINT FIRE & EMERGENCY SERVICE AREA
Seat B, 1 Yr. Term

SHAFER, Clifford A. 132

Seat C, 3 Yr. Term

DONNER, William L. 107

Seat D, 3 Yr. Term

PASTRO, James 105

SOUTH PENINSULA HOSPITAL SERVICE AREA
Seat A, 3 Yr. Term

JONES, Enid M. 1,062

Seat B, 3 Yr. Term

LAMBERT, Marguerite 434

PURCELL, Robert Paul 852

Seat C, 3 Yr. Term

HENDRIX, John L. 435

THOMAS, Gary R. 858

SOUTH KENAI PENINSULA ROAD
MAINTENANCE SERVICE AREA
Seat E, 3 Yr. Term

NYE, Willy	512
Total Write-ins	34

TOTAL NUMBER OF PERSONS VOTING IN THIS ELECTION: 5,728

NOW THEREFORE, THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH DECLARES:

Section 1. That in the boroughwide election for two Board of Education members, Joyce Fischer and Wayne Kessler were elected having received the highest vote tallies of five candidates and in excess of 40 percent of the vote.

Section 2. That in the boroughwide election the Proposition approving construction of a new elementary school in Seward, Alaska was approved by the voters.

Section 3. That in Assembly District 2, Stan A. "Sam" McLane was elected to a second 3 year term in Seat B.

Section 4. That in Assembly District 3, Betty J. Glick was elected to a third 3 year term in Seat E.

Section 5. That in Assembly District 4, Brentley D. Keene was elected to a third 3 year term in Seat B, and Charles "Al" Poindexter was elected to a 3 year term in Seat C.

Section 6. That in the Bear Creek Fire Service Area, Clara M. Fultz was elected to a second 3 year term in Seat C, and Dewey J. Smith was elected to a three year term in Seat D.

Section 7. That in the East Kenai Peninsula Road Maintenance Service Area, no one filed for the vacancies, Seat C, one year term and Seat E, three year term. For Seat C, Rick Jones received the most write-in votes and was elected to a one year term. For Seat E, Ken Baysinger received the most votes but currently serves the board in Seat A. Two write-ins tied for the second highest tally, Rick Jones, clearly elected to Seat C, and Karen Skogstad who was therefore elected to Seat E for a three year term.

Section 8. That in the Central Peninsula Emergency Medical Service Area, Emery Thibodeau was elected to a three year term in Seat E.

Section 9. That in the Central Kenai Peninsula Road Maintenance Service Area John E. Cook was elected to a three year term in Seat E.

Section 10. That in the Kalifornsky Fire Service Area, John Fairchild was elected to a three year term in Seat A, Emery Thibodeau was elected to a three year term in Seat B.

Section 11. That in the Ridgeway/Sterling Fire Service Area, Darlene M. Wilder was elected to a three year term in Seat E.

Section 12. That in the Nikiski Fire Service Area Mae M. Leighton was elected to a one year term in Seat A, write-in Preston Williams was elected to both Seat C and Seat D with no other write-ins receiving more than one vote each, and Scott B. Hagen was elected to Seat E, a three year term.

Section 13. That in the North Peninsula Recreation Service Area Audrey Hodgins was elected to a second three year term in Seat C and write-in Ron Johnson was elected to a three year term in Seat D.

Section 14. That in the North Kenai Peninsula Road Maintenance Service Area, Sharon M. Brower was elected to a one year term in Seat C and Ron Johnson was elected to a three year term in Seat E.

Section 15. That in the Anchor Point Fire and Emergency Service Area, Clifford A. Shafer was elected to a one year term in Seat B, William L. Donner was elected to a three year term in Seat C and James Pastro was elected to a three year term in Seat D.

Section 16. That in the South Peninsula Hospital Service Area, Enid M. Jones was elected to a three year term in Seat A, Robert Paul Purcell was elected to a three year term in Seat B and Gary R. Thomas was elected to a three year term in Seat C.

Section 17. That in the South Kenai Peninsula Road Maintenance Service Area Willy Nye was elected to a three year term in Seat E.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 11th DAY OF OCTOBER, 1988.

Jonathan W. Sewall, Assembly President

ATTEST:

Joanne Bridley
Borough Clerk

Introduced by: Brown
Date: 1/20/98
Action: Adopted
Vote: 6 Yes, 1 No, 1 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 98-004

A RESOLUTION MODIFYING STAFFING IN THE BOROUGH CLERK'S DEPARTMENT AND ESTABLISHING A NEW MAXIMUM SALARY FOR THE DEPUTY BOROUGH CLERK

WHEREAS, the deputy borough clerk will manage and more closely monitor the day-to-day activities of the records center; and

WHEREAS, the records supervisor position is a duplication of supervisory duties; and

WHEREAS, the secretary in the clerk's office will be given additional duties;

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

SECTION 1. That the position of secretary - clerk's office (range J) is deleted and an administrative assistant - clerk's office (range L) is established.

SECTION 2. That the position of records/micrographics supervisor is deleted and an additional records/micrographics technician job is established.

SECTION 3. That the maximum annual salary for the deputy borough clerk is increased to $45,000.

SECTION 4. That the attached job descriptions for borough clerk, deputy borough clerk, administrative assistant - clerk's office, and records/micrographics technician are approved and incorporated by reference.

SECTION 5. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 20TH DAY OF JANUARY, 1998.

Jack E. Brown, Assembly President

ATTEST:

Linda S. Murphy, Borough Clerk

Position Description: Borough Clerk

Service Type: Legislative

Definition: The borough clerk is appointed by the borough assembly (KPB 22.10.020) and performs such duties as are defined by state statute and borough ordinances and as directed by the assembly. Areas of responsibility include administration of legislative functions, elections and the records management division.

Minimum Qualifications: Degree in Public Administration or a related field and seven years experience in local government, including at least 4 years supervisory experience. Experience may be substituted for education on a 2 year for 1 year basis. A working knowledge of borough, state and federal laws and regulations; the Alaska Administrative Code; and Alaska Public Offices Commission Regulations is essential. Incumbent must possess a demonstrated ability to supervise, exercise leadership, and maintain effective working relations with the mayor, assembly, other borough officials, employees and the general public. Possession of professional certification with the International Institute of Municipal Clerks (IIMC) is preferred at appointment and must be attained within 3 years of appointment.

Essential Functions:

1. Working closely with the Deputy Clerk, supervises all clerk's office, elections and records management division personnel including the hiring of staff, assigning specific duties, completing and presenting performance evaluations and undertaking any disciplinary actions necessary.

2. Develops and assigns workload priorities; determines time lines for task completion and identifies essential inter-relationship between tasks of all office personnel.

3. Attends assembly meetings and hearings and keeps journal.

4. Prepares agendas and packets for assembly meetings and gives notice of the time and place of meetings to the public and other governmental agencies. Assures compliance with requirements for public meetings.

5. Supervises municipal elections and assists with state elections.

6. Acts as liaison between the assembly, administrative departments, state and federal agencies, and the general public.

7. Provides for the codification of borough ordinances.

Other Functions:

1. Maintains custody of the official borough seal.

2. Has ultimate responsibility for the management of borough records including the development of retention schedules and procedures for inventory, storage and destruction of records as necessary.

3. Assures compliance with 42 U.S.C. 1971-1974 (Voting Rights Act of 1965, as amended).

4. Maintains and provides copies upon request of official records and documents.

5. Prepares and administers annual budget for assembly, clerk's office, records management and elections.

6. Acts as voter registrar and voter registrar trainer for State of Alaska.

7. Administers oaths of office and acts as notary public.

8. Attests deeds, contracts and other legal documents.

9. Certifies applications for petitions for initiative, referendum and recall. Prepares, issues and certifies petitions.

10. Reviews for completeness and certifies Utility Special Assessment District petitions.

11. Acts as parliamentary advisor to the assembly.

12. Provides distraint warrants on personal property delinquencies.

13. Provides necessary transcripts and certifications for bond issues.

14. Serves as Secretary to the Board of Equalization and Board of Adjustment.

15. Assists with and certifies foreclosure proceedings on real property.

16. Attends municipal clerk training sessions and professional association meetings necessary to receive and/or maintain certification as a municipal clerk.

17. Provides for training and education of staff.

18. Other related duties as requested by the assembly or required by law.

Physical Demands: While performing the duties of this job, the employee is regularly required to communicate orally and to use hands dexterously to operate office equipment. The employee frequently is required to sit; and occasionally required to stand, walk and reach with hands and arms. The employee must occasionally transport up to 30 pounds. Specific vision abilities required include close vision and the ability to adjust focus. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Position Description: Deputy Borough Clerk

Service Type: Legislative

Definition: Under the general direction and supervision of the borough clerk, the deputy borough clerk assists with all office functions, acts as computer systems administrator, supervises the records management section and coordinates local elections.

Minimum Qualifications: Degree in Public Administration or related field and four years experience in municipal government, including two years supervisory experience. Experience in a municipal clerk's office may be substituted on a year-for-year basis for educational requirements. Advanced knowledge of microcomputers and networking systems; excellent English, spelling, punctuation and grammar skills; and ability to communicate clearly and concisely, orally and in writing. Ability to work a varied schedule required. Familiarity with legislative and election procedures preferred.

Essential Functions:

1. Attends all Regular and Special Assembly meetings and prepares minutes.

2. Maintains computer index subject filing system. Establishes and revises filing systems as necessary.

3. Supervises clerical and/or service operations of the office, including holding regular staff meetings.

4. Directly supervises the records management section personnel including participating in the hiring of staff, assigning specific duties, completing and presenting performance evaluations, and undertaking any disciplinary actions necessary. Trains staff members in all borough departments on procedures for use of records computer system. Consults data processing in development, design and operation of computer applications. Maintains user documentation. Responds to technical questions regarding system's functions.

5. Supervises and coordinates all Regular and Special municipal elections. Assists with state elections as requested.

Other Functions:

1. Serves as acting borough clerk in the absence of the clerk.

2. Serves as computer systems administrator for department.

3. Assists in the recruitment and assignment of clerical personnel. Trains new personnel in general functions and specific duties.

4. Maintains voluminous and complex administrative and general reports; reviews various reports and forms for completeness.

5. Coordinates preparation of assembly's agenda materials.

6. Composes ordinances, resolutions and accompanying memoranda for assembly action.

7. Renders administrative assistance to the Borough Assembly.

8. Prepares and administers records management annual budget. Assists borough clerk in preparation of annual budget for assembly, clerk's office and elections. May review and approve purchase orders, invoices and timesheets.

9. Performs research for public, borough staff and assembly.

10. Acts as voter registrar, voter registrar trainer and notary public.

11. Attends municipal clerk training sessions while working for professional certification with International Institute of Municipal Clerks (IIMC). Once certification attained, participates in continuing education as appropriate.

12. Performs other specialized and complex duties as assigned.

Physical Demands: While performing the duties of this job, the employee is regularly required to communicate orally and to use hands dexterously to operate office equipment. The employee frequently is required to sit; and occasionally required to stand, walk, and reach with hands and arms. The employee must occasionally transport up to 30 pounds. Specific vision abilities required include close vision and the ability to adjust focus. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Position Description: Administrative Assistant - Clerk's Office

Service Type: Legislative - Range L

Definition: This is an administrative position under the general direction and supervision of the borough clerk. In the absence of the borough clerk and/or deputy clerk, the incumbent supervises the clerical and/or service operations for the office of the borough clerk. Occasionally required to work Regular and Special Borough Assembly meetings. Provides a full range of office support functions of a complex nature requiring independent judgment and receiving only general administrative supervision from the borough clerk or deputy clerk.

Minimum Qualifications: High school diploma or GED; at least four years progressively responsible office experience. Experience in a city or municipal clerk's office or other governmental agency preferred. Working knowledge of municipal law, Alaska State Statutes (Title 29 preferred), Alaska Public Offices Commission forms and regulations. Demonstrated ability to operate a personal computer. Must be capable of functioning with minimal direction; perform work in an organized and professional manner under stressful situations and pressures of short deadlines. Must be able to deal effectively and harmoniously with the public and maintain effective working relationships with other employees. Must maintain confidentiality of information and demonstrate independent judgment.

Essential Functions:

1. Maintains soft ledger accounting system for department, reconciles balances, researches transactions, performs budget transfers and verifies financial reports.

2. Prepares and processes all financial transactions for the department to include purchase orders, check requests, petty cash and travel authorizations.

3. Prepares ordinances and resolutions in final form for permanent record and codification.

4. Prepares and maintains permanent record of all oaths of office for all boards and commissions.

5. Maintains internal records system and legislative history.

6. Assists with administration of all regular and special borough elections.

7. Maintains fixed asset inventory.

8. Serves as Notary Public and Voter Registrar for the public.

Other Functions:

1. Coordinates office work flow.

2. Assists in the preparation of the annual department budget.

3. Occasionally attends committee and assembly meetings in the absence of the Clerk and/or Deputy Clerk.

4. Attends municipal clerk training sessions while working for professional certification with International Institute of Municipal Clerks (IIMC). Once certification attained, participates in continuing education as appropriate.

5. Other related tasks as assigned.

Physical Demands: While performing the duties of this job, the employee is regularly required to communicate orally and to use hands and fingers dexterously to operate office equipment. The employee frequently is required to sit; and occasionally required to stand, walk, and reach with hands and arms. The employee must occasionally transport up to 30 pounds. Specific vision abilities required include close vision and the ability to adjust focus. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Examination: Related skills tests as required

Position Description: Records/Micrographics Technician

Service Type: Classified - Range I

Definition: Under the general direction and supervision of the deputy borough clerk, the records/micrographics technician is responsible for the preparation, microfilming, storage and retrieval of borough and school district documents.

Minimum Qualifications: High school diploma or GED; one year of experience operating microfilm equipment including rotary camera; type 40 wpm; and ability to transport and lift heavy loads.

Essential Functions:

1. Prepares, films, and indexes borough records.

2. Assists in maintaining archived borough documents according to established Records Management System.

3. Transfers and retrieves archived records for borough departments as requested.

4. Provides reference service with fiche film and paper copies.

5. Supplies copies of microfilmed ordinances, resolutions, minutes to borough staff as requested.

6. Maintains production and checkout logs.

7. Performs maintenance and repair on micrographic equipment.

8. Prepares records for destruction in accordance with the Kenai Peninsula Borough Records Retention Schedule.

Other Functions:

1. Performs various clerical duties.

2. Assists in clerk's office when needed.

3. Other related duties as assigned.

Physical Demands: While performing the duties of this job, the employee is regularly required to use hands and fingers dexterously to operate office equipment; to communicate orally; to sit, stand, and walk; to reach with hands and arms; and transport and lift up to 40 pounds. The employee must occasionally transport and lift up to 70 pounds. Specific vision abilities required include close vision and the ability to adjust

focus. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Examination: Related skills tests as required.

Introduced by:	Johnson, Chesley
Date:	08/09/22
Hearing:	09/06/22 & 09/20/22
Action:	Introduced and set for public hearing
Vote:	7 Yes, 2 No, 0 Absent
Date:	09/06/22
Action:	Postponed to 10/25/22
Vote:	9 Yes, 0 No, 0 Absent
Date	10/25/22
Action:	Postponed to 12/13/22
Vote:	9 Yes, 0 No, 0 Absent
Date:	12/13/22
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-36

AN ORDINANCE AMENDING KPB CHAPTER 21.25 AND KPB CHAPTER 21.29 REGARDING CONDITIONAL LAND USE PERMITS AND MATERIAL SITE PERMITS, UPDATING NOTICE, APPLICABILITY, PERMIT TYPES, APPLICATION REQUIREMENTS, STANDARDS AND PERMITS CONDITIONS

WHEREAS, there are goals and objectives within the 2019 Kenai Peninsula Borough Comprehensive Plan to establish policies that better guide land use to minimize land use conflicts, maintain property values, protect natural systems and support individual land use freedoms, as well as strategy objectives to update the Borough's existing conditional use regulations for gravel extraction and other uses to better address reoccurring land use conflicts; and

WHEREAS, land use conflicts related to earth materials extraction and processing sites remain a point of contention within the Borough; and

WHEREAS, under current state law a first or second class borough shall provide for planning, platting, and land use regulation on an areawide basis, except where such powers have been delegated to a city within the Borough; and

WHEREAS, land use regulation includes zoning powers; and

WHEREAS, the Borough has enacted KPB Chapter 21.04, Zoning Districts, and has established two zoning districts: the municipal district and the rural district; and

WHEREAS, within the rural district, KPB 21.25.040 requires a permit for the commencement of certain land uses within the rural district of the Kenai Peninsula Borough; and

WHEREAS, approximately 253 registered prior existing use material sites and approximately 104 conditional land use permits for material sites have been granted since 1996; and

WHEREAS, the assembly established a material site work group by adoption of Resolution 2018-004 (Substitute) to engage in a collaborative discussion involving the public and industry to make recommendations regarding the material site code; and

WHEREAS, the ordinance, Ordinance 2019-30, incorporating the final report and work group recommendations, failed enactment following public hearing and a vote during the assembly's October 24, 2019 meeting; and

WHEREAS, in late 2021, due to continued conflict including costly administrative and court appeals, the administration brought this land use issue back to the assembly and requested assembly action regarding the permitting process related to earth materials extraction and processing; and

WHEREAS, throughout this process the planning department, the material site work group, the planning commission, and the assembly have received many verbal and written public comments from Borough residents, professionals, and site operators; and

WHEREAS, the assembly first considered this issue by looking at the same ordinance that failed in 2019, relabeled Ordinance 2021-41; and

WHEREAS, Ordinance 2021-41 and a related substitute ordinance were tabled by the assembly at its February 1, 2022 to allow for consideration by the assembly as a committee of the whole, and

WHEREAS, the availability of three different types of conditional land use permits for material sites are designed to separate impacts of such uses and tailor applicable conditions and requirements to the associated impacts; and

WHEREAS, the Kenai Peninsula Borough recognizes the importance of implementing bonding, as applicable, to ensure neighboring properties and water sources are insured; and

WHEREAS, implementing a systematic process to determine a prior-existing use will allow the planning department to better identify the number of and types of pre-existing use sites in existence on the Kenai Peninsula and address complaints regarding nonconforming prior existing material sites; and

WHEREAS, requiring all prior-existing use operations to comply with reclamation plan and hours of operation requirements protects public health, safety, and general welfare; and

WHEREAS, requiring all prior-existing use operations which extract material below or within four feet of the seasonal highwater table to conduct operations in accordance with

the requirements outlined in the relevant sections of code protects public health, safety, and general welfare; and

WHEREAS, buffer zones, dust control, hours of operation, and setbacks as mandatory conditions applicable to all permits, along with the discretionary conditions and conditions specific to processing or extraction with the water table, will reduce dust, noise, and attractive nuisances, thereby promoting public health, safety, and general welfare; and

WHEREAS, providing the planning director or planning commission the ability to add certain discretionary conditions recognizes the unique challenges material sites on the Kenai Peninsula present and that all conditions appropriate for one material site on one part of the Kenai Peninsula may not be appropriate for another site located on another part of the Kenai Peninsula; and

WHEREAS, after many years of work, public input, and public deliberative process, this ordinance enacts a new notice section to align with notice requirements of Title 20 of Borough code and enacts a new chapter of code related to material sites wherein it establishes a multi-permit system with standards and conditions applicable to each permit type that are intended to encourage responsible development while also protecting and promoting the public health, safety, and general welfare of all residents and visitors of the Kenai Peninsula Borough; and

WHEREAS, the planning commission at its regularly scheduled meeting held on _____ 2022, recommended _____;

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

SECTION 1. That KPB 21.25.050 is hereby amended as follows.

21.25.050. Permit considerations—Public hearing required.

A. Within [21]30 days of receiving an application, the planning director or designee shall review the submitted application for completeness and compliance with this chapter. If it is incomplete or does not meet the requirements of this chapter, the planning director shall notify the applicant in writing. The planning director shall thereafter either return the application to the applicant or schedule the application to be considered by the planning commission at the next appropriate scheduled meeting.

...

SECTION 2. That the Kenai Peninsula Borough Code of Ordinances is hereby amended by repealing and reenacting KPB Chapter 21.25.060, Notice, which shall read as follows:

21.25.060. Notice.

A. Except for counter permits for material sites issued under KPB 21.29.020(A) or expressly excepted elsewhere in this title, notice of any pending application required under this title shall be given in accordance with this section.

B. Required forms of notice are as follows:

1. Notice of the pending application will be published on the borough website.

2. When available, the notice will also be posted on a public bulletin of the impacted community.

3. At the beginning of the notice period a copy of the notice will be sent by First Class U.S. Mail to all owners and/or leaseholders of record of property located with a radius of one-half mile of the subject property.

C. The notice must contain a description of the proposed location, the type of proposed land use or a description of the action requested, as applicable, the applicant's name, where written comments may be submitted, the last deadline for submitting written comments to the planning commission, and the date, time and location of the public hearing.

D. The failure of any person to receive any notice required under this section, where the records of the borough indicate the notice was provided in a timely and proper manner, shall not affect the validity of any proceeding under this title or be basis for appeal.

SECTION 3. That the Kenai Peninsula Borough Code of Ordinances is hereby amended by repealing and reenacting KPB Chapter 21.29, Material Site Permits, which shall read as follows:

21.29.005. Intent and Purpose.

The purpose of this chapter is to provide a land use permitting process to regulate the operation, scope, and duration of earth materials extraction and processing within the borough while promoting the public health, safety, and general welfare of the Kenai Peninsula Borough. It is the further purpose of this chapter to promote compatible, orderly development.

21.29.010. Applicability.

A. This chapter applies to all private and public lands in the borough except where the use is prohibited by ordinance within a local option zoning district or exempt under KPB 21.29.015.

B. This chapter does not apply within the incorporated cities of the Kenai Peninsula Borough.

C. Earth material extraction within 300 linear feet from riparian wetlands and the seasonal high-water level of naturally-occurring open water bodies, such as a lake, pond, river, stream, or ocean, is prohibited. This prohibition does not apply to man-made water bodies or isolated ponds of less than one acre on private property.

D. All operations must be conducted in accordance with the current publication of the State of Alaska, Alaska DEC User's Manual Best Management Practices for Gravel/Rock Aggregate Extraction Projects. In the event a provision of this chapter conflicts with the State of Alaska's manual, this chapter controls.

21.29.015. Material extraction exempt from obtaining a permit.

A. Material extraction which disturbs an area of less than one acre that is not in a mapped flood plain or subject to 21.29.010(B), does not enter the water table, and does not cross property boundaries, does not require a permit. There will be no excavation within 32 feet of a lot line.

B. Material extraction taking place on dewatered bars within the confines of the Snow River and the streams within the Seward-Bear Creek Flood Service Area do not require a permit, however, operators subject to this exemption must provide the planning department with the information required by KPB 21.29.030(A)(1), (2), (6), (7) and a current flood plain development permit prior to beginning operations.

C. A prior existing use under KPB 21.29.120 does not require a material extraction permit. Notwithstanding the foregoing, on or before January 1, 2026, a prior existing use under KPB 21.29.120 must: (1) provide a reclamation plan under KPB 21.29.060 that is approved by the planning director or designee; and (2) come into compliance with the buffer zone requirements under KPB 21.29.050(A)(1).

21.29.020. Types of permits available.

A. Counter permit. A counter permit is required for earth material extraction which disturbs more than one acre and less than 10 cumulative un-reclaimed acres. Material processing, screening, or crushing, and material extraction within four feet of the seasonal high-water table is prohibited under a counter permit. A counter permit is valid for a period of two years. Upon request from the applicant, the planning director, or designee, may grant one 12-month extension on a counter permit. Counter permits are approved by the planning director, or designees, and are not subject to notice requirements under KPB 21.25.060. The planning director's decision to approve or deny a counter permit may be appealed to the planning commission, which must act as the hearing officer, in accordance with KPB 21.20.

B. Conditional land use permit. A conditional land use permit (CLUP) is required for the following types of earth material extraction or uses:

1. Earth Materials Extraction CLUP. An Earth Materials Extraction CLUP is required for any material extraction which disturbs 10 or more cumulative acres. Material processing, screening or crushing, or extraction within four feet of the seasonal high-water table is prohibited under this permit. The standard conditions set out in KPB 21.29.050 are applicable to this type of CLUP.

2. Earth Materials Processing CLUP. An Earth Materials Processing CLUP is required for any operation that includes earth materials processing, screening, or crushing activities. The conditions set forth in KPB 21.29.050 plus the conditions set out in KPB 21.29.055 for material extraction processing area applicable to this type of CLUP.

3. Earth Materials Extraction Within Water Table CLUP. An Earth Materials Extraction within Water Table CLUP is required for material extraction and operations of any size within four feet of the seasonal high-water table. The conditions set forth in KPB 21.29.050 plus the requirements and conditions set forth in KPB 21.29.057 for material extraction within four feet of the seasonal high-water table are applicable to this type of CLUP.

An applicant may request a CLUP that includes one, two or all three of the above permit types. A CLUP is valid for a period of five years. A CLUP may be renewed in accordance with KPB 21.29.070. The provisions of KPB Chapter 21.25 are applicable to material site CLUPs and the provisions of KPB 21.25 and 21.29 are read in harmony. If there is a conflict between the provisions of KPB 21.25 and 21.29, the provisions of KPB 21.29 are controlling.

21.29.030. Application procedure.

A. In order to obtain a counter permit or CLUP under this chapter, an applicant must first complete and submit to the borough planning department a permit application, along with the fee listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees. The planning director may determine that certain contiguous parcels are eligible for a single permit. The application must include the following items, without which the application will be deemed incomplete:

1. Legal description of the parcel, KPB tax parcel ID number, and identification of whether the permit is for the entire parcel, or a specific location within a parcel;

2. Expected life span of the material site;

3. A buffer plan consistent with KPB 21.29.050(A)(1);

4. Reclamation plan consistent with KPB 21.29.060;

5. The depth of excavation;

6. Type of material to be extracted;

7. A site map provided by a professional surveyor licensed in the State of Alaska to include the following:

   a. Location of excavation, and, if the site is to be developed in phases, the life span and expected reclamation date for each phase;
   b. Proposed buffers consistent with KPB 21.29.050(A)(1), or alternate buffer plan;
   c. Identification of all encumbrances, including but not limited to, easements;
   d. Points of ingress and egress. Driveway permits must be acquired from either the state or borough as appropriate prior to submitting the application;
   e. Anticipated haul routes, contingent on approval from the governmental agency with regulatory jurisdiction over the road;
   f. Location of any processing areas on the parcel, if applicable;
   g. North arrow;
   h. The scale to which the site plan is drawn;
   i. Preparer's name and date; and
   j. Field verification must include staking the boundary of the parcel at sequentially visible intervals. The planning director may grant an exemption in writing to the staking requirements if the parcel boundaries are obvious or staking is unnecessary.

8. A site plan, prepared by a qualified independent civil engineer licensed and active in the State of Alaska to include the following:

a. Surface water protection measures, if any, for adjacent properties, including the use of diversion channels, interception ditches, on-site collection ditches, sediment ponds and traps, and silt fence;
b. Location and elevation of test holes, and depth of groundwater, based on the seasonal high-water table. At least one test hole per ten acres of excavated area is required to be dug. The test holes must be at least four feet below the proposed lowest elevation of excavation depth;
c. Location of all private wells of adjacent property owners within 300 feet of the proposed parcel boundary; and
d. Location of any water body on the parcel, including the location of any riparian wetland as determined by best available data.

9. A statement by the operator of the site that the requirements of KPB 21.29.045 have been satisfied.

B. In order to aid the planning commission or planning director's decision-making process, the planning director may provide vicinity, aerial, land use, and ownership maps for each application and may include additional information.

21.29.040. Standards for sand, gravel or material sites.

A. These material site regulations are intended to protect against aquifer disturbance, road damage, physical damage to adjacent properties, dust, noise and other impacts of earth materials extraction sites through setbacks, buffer zones, and street-level visual screening. Prior to granting a counter permit or conditional land use permit under this chapter, the planning director or planning commission, as applicable, must make the following findings:

1. That the use is not inconsistent with the applicable comprehensive plan;

2. That the use will not be harmful to the public's health, safety, and general welfare;

3. That sufficient setbacks, buffer zones, and other safeguards are being provided consistent with this chapter; and

4. That the use provides for a reclamation plan consistent with this chapter.

21.29.045. Required compliance with State and Federal laws

A. All applicants for permits for earth materials extraction are required to demonstrate compliance with state and federal law. Prior to final approval of the permit, the applicant or agent must provide written documentation from the permitting agency of compliance with the following:

1. Mining license as required by the Alaska State Department of Revenue, pursuant to A.S. 43.65;

2. Mining permit as required by the Alaska State Department of Natural Resources (ADNR) if extraction activities are to take place on state land;

3. Reclamation plan as required by ADNR, pursuant to A.S. 27.19;

4. Notice of intent for construction general permit or multi-sector general permit and storm water pollution prevention plan, and other associated permits or plans required by the Department of Environmental Conservation (DEC) pursuant to the Alaska Pollutant Discharge Elimination System (APDES) requirements;

5. United States Army Corps of Engineers (USACE) permit pursuant to Section 404 of the Clean Water Act, 33 U.S.C. 1344, if material extraction activity requires USACE approval; and

6. Any other applicable state or federal agency with regulatory authority of mining activities or earth materials extraction.

B. In addition to the requirements in subsection (A) of this section, all activity must be conducted in compliance with state or federal regulations governing the items listed below. Written documentation of compliance with these regulations is not required. Complaints received by the borough of violations of requirements within this section will be forwarded to the appropriate agency for enforcement, this includes but is not limited to:

1. *Air quality*.

   a. EPA air quality control permit is required for asphalt plants and crushers;
   b. ADNR burn permit is required for brush or stump burning. Combustibles must be stockpiled separate from noncombustibles, and burn permit requirements must be followed; and
   c. ADEC dust control and air quality regulations pertaining to burning activities must be followed.

2. *Water quality*. EPA or ADEC regulations controlling spills, spill reporting, storage and disposal of oil, anti-freeze and hydrocarbons.

3. *Hazardous Materials*. Use and storage of hazardous materials, waste and explosives.

   a. EPA regulations controlling use of hazardous materials must be followed; and

b. U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives regulations must be followed when storing or using explosives.

C. Failure to comply with any of the requirements in subsections (A) and (B) of this section is a violation of the permit, and is subject to enforcement pursuant to KPB Chapter 21.50.

21.29.050. Permit conditions applicable to all permits.

A. The planning commission or planning director, as applicable, must impose the following mandatory conditions prior to approval of a permit under this chapter:

1. *Buffer Zone*.

a. A buffer area of 32 feet must 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 that provides sufficient noise and street-level visual screening; an eight-foot earthen berm with a 2:1 slope; or a minimum eight-foot fence;

b. A 2:1 slope must be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if the site plan provides the timeframe for removal and verification that suitable, stabilizing material will replace the removed material within 30 days of removal;

c. Where an easement exists, a buffer must not overlap the easement, unless otherwise conditioned by the planning commission or planning director, as applicable; and

d. This requirement may only be waived upon a finding by the planning director or planning commission, as applicable, that a lot line where the waiver is requested is directly adjacent to another material site.

2. *Water source separation*.

a. Material extraction below or within four feet of the seasonal high-water table is prohibited unless the applicant is issued a CLUP Material Extraction Within Water Table Permit and the requirements and conditions set forth in KPB 21.29.057 are satisfied;

b. Dewatering either by pumping, ditching or some other form of draining that removes water from the site or causes water to leave the site is prohibited;

c. All permits shall be issued with a condition which prohibits any material extraction within 100 linear feet of any private well or water source existing prior to original permit issuance; and

d. On site movement of water may be permitted pursuant to KPB 21.29.057 and if: (i) the operator provides a statement under seal and supporting data from a qualified independent civil engineer licensed and active in the State of Alaska that the dewatering will not lower any known water systems; and (ii) the applicant posts a bond for liability for potential accrued damages in an amount equivalent to the cost to replace each water wells within a 300-foot radius of the site. The rebuttable presumption is that the cost per well is a minimum of $10,000.

3. *Roads*. Operations that impact borough roads must be conducted in accordance with the requirements and remedies of KPB Chapter 14.40.

4. *Dust control*. Dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.

5. *Hours of operation*. Material extraction activities, including equipment operation, may only occur between the hours of 6:00 a.m. and 9:00 p.m. Alaska Standard Time (AKST), or as determined by the planning commission or planning director, as applicable, to be appropriate based on information presented.

   a. *Seasonal, project-based waiver*. An applicant may request a seasonal, project-based waiver of the hours of operation requirements under this subsection. A waiver granted under this subsection is valid for six consecutive calendar months. To grant a waiver under this subsection, the commission must find that the waiver is necessary for a specific project, and that the waiver is not harmful to the public health, safety, and general welfare of borough residents.

6. *Groundwater elevation.* All material sites must maintain one monitoring well four feet below the proposed excavation per ten acres of excavated area.

7. *Setback.* Material site excavation areas must be 250 feet from the property boundaries of any local option zoning district, existing public school ground, private school ground, college campus, childcare facility, multi-purpose senior center, assisted living home, and licensed health care

facility. If overlapping, the buffer areas of the excavation must be in addition to the 250-foot setback.

8. *Permit boundaries.* The buffers and any easements or right-of-way abutting the proposed permit area must be staked at sequentially visible intervals. Field verification and staking will require the services of a professional land surveyor. Stakes must be in place prior to issuance of the permit.

9. *Processing.* Material extraction of any size that includes processing, screening, or crushing activities is prohibited unless the applicant is issued an Earth Materials Processing CLUP and the conditions set forth in KPB 21.29.055 are imposed on the permit.

B. Discretionary Conditions. The planning commission or planning director, as applicable, may set conditions of approval for issuance of a counter permit or CLUP, as appropriate for the area in which the development is sited, for the following:

1. *Setbacks/Buffer Area*.

a. The mandatory buffer area condition in subsection (A) above may be increased, up to a maximum of 100 feet between the area of excavation and the parcel boundaries, if the planning commission finds based on substantial evidence presented that increasing the buffer area is necessary for the public health, welfare and safety of the surrounding community;

i. Upon request of the applicant, in lieu of any additional buffer area under this subsection designed to separate the use of material site activities from neighboring parcel boundaries, an eight-foot-high berm above the preexisting elevation may be constructed, prior to excavation, around the excavation area. If the excavation site area expands, the berm may move toward the permitted boundary until such limits of the permitted area are exhausted. The berm must be maintained at eight-foot height while permitted activity is occurring.

b. All other requirements of KPB 21.29.050(A)(1) apply; and

c. When a buffer area has been denuded prior to review of the application by the planning commission or planning director revegetation may be required.

2. *Road maintenance and repair*. In consultation with the Road Service Area Director, road maintenance or repair of public right-of-way haul routes may be required of the permittee.

3. *Ingress and egress*. The planning commission or planning director may determine the points of ingress and egress for the material site. The permittee is not required to construct haul routes outside the parcel boundaries of the material site. Driveway authorization must be acquired, from either the state through an "Approval to Construct" or the borough road service area, as appropriate, prior to issuance of a material site permit when accessing a public right-of-way.

4. *Dust suppression*. Dust suppression may be required when natural precipitation is not adequate to suppress the dust generated by the material site traffic on public right-of-way haul routes.

5. *Surface water protection.* Use of surface water protection measures as specified in KPB 21.29.030(A)(8)(a).

6. *Street-level screening*. Street-level visual screening, noise mitigation, and lighting restrictions as appropriate for the surrounding area and in accordance with the standards set forth in KPB 21.29.040.

21.29.055. Earth materials processing.

In accordance with KPB 21.29.020(B)(2), a n Earth Materials Processing CLUP is required for earth materials processing activities, such as material screening or crushing. Prior to issuing a permit under this subsection, the planning commission must impose the mandatory conditions set forth in KPB 21.29.050(A) and discretionary conditions as the planning commission deems appropriate. In addition, the following requirements and permit conditions specific to an Earth Materials Processing CLUP apply:

A. *Setback.* In the case of a CLUP, any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries. At its discretion, the planning commission may waive the 300-foot processing distance requirement, or allow a lesser distance in consideration of and in accordance with existing uses of the properties in the vicinity at the time of approval of the permit.

B. *Hours of operation.*

1. Processing equipment may only be operated between 8:00 a.m. and 7:00 p.m. AKST, or as determined by the planning commission.

2. The planning commission may grant exceptions to increase the hours of operation and processing in the event of an emergency or a good-cause finding that the increased hours of operation serve a public purpose and are not harmful to the public health, safety, and general welfare of borough residents. Such an exception shall not exceed 120 days.

3. Seasonal, project-based waiver. An applicant may request a seasonal, project-based waiver of the hours of operation requirements under this section. A waiver granted under this subsection is valid for six consecutive calendar months. To grant a waiver under this subsection, the commission must find that the waiver is necessary for a specific project, and that the waiver is not harmful to the public health, safety, and general welfare of borough residents.

21.29.057. Material extraction below or within four feet of the seasonal high-water table.

In accordance with KPB 21.29.020(B)(3), a CLUP is required for material extraction of material below or within four feet of the seasonal high water table. Prior to a permit being issued the planning commission must impose the mandatory conditions set forth in KPB 21.29.050(A) and discretionary conditions as deemed appropriate. In accordance with KPB 21.29.050(A)(2)(b) dewatering is prohibited. The following additional application requirements and permit conditions specific to a Material Extraction within the Water Table CLUP apply:

A. Prior to application for a water table extraction permit, the following requirements must be met:

1. Installation of a sufficient number of monitoring wells and test pits, as recommended by a qualified professional, to adequately determine groundwater flow direction, hydraulic gradient, water table and seasonal high-water table elevation Monitoring well and test pit locations must provide the qualified professional with adequate information to characterize the entire property that will be permitted for material extraction. Well casing elevations must be surveyed to a vertical accuracy of 0.01 feet by a registered land surveyor and tied to NAVD 1988.

2. Determination of seasonal high-water table elevation, groundwater flow direction, hydraulic gradient, and water table elevation for the site must be measured under the supervision of a qualified professional.

3. A written report must be completed by a qualified professional that makes a determination about the potential adverse effects to groundwater and surface water body elevation, groundwater and surface water quality, surrounding water users and adjacent properties. The determination must be

based on available data, interpretations of the data and knowledge of groundwater processes.

4. The report must be submitted with the CLUP application and must:

a. Identify existing public water system sources (i.e., wells, springs, surface water intakes), as identified by the state, that are located within one-half mile of the boundary of the property on which the activity will take place;

b. Identify actual or presumed private drinking water wells located within one-half mile of the boundary of the property on which the activity will take place and include a copy of the available well logs;

c. Identify existing regulated potential sources of contamination within at least one-half mile of the boundary of the property on which the activity will take place;

d. Contain maps at appropriate scales presenting the results of the well search, the setbacks required by subsection (C)(7) of this section, and illustrating wetlands and water bodies; at least one map must show identified potential sources of contamination;

e. Include the water table elevation monitoring data, monitoring well logs and records of any test pits, and a discussion of the seasonal high-water table determination; and

f. Evaluate subsurface hydrologic conditions and identify potential adverse effects that may occur as a result of material extraction. The evaluation of the hydrologic conditions must include identifying confining layers.

B. In addition to the application requirements for a CLUP for earth materials extraction, the application for a water table extraction permit must include:

1. A description of the proposed extent and depth of material extraction beneath the seasonal high-water table.

2. A written report that meets the requirements of subsection (A)(4) of this section, a monitoring plan, and a spill prevention, control, and countermeasures plan as required by this section.

C. *Conditions.* In addition to the requirements of KPB 21.29.050, operating conditions for extraction within or below four feet of the seasonal high-water table are as follows:

1. Implement a monitoring plan that meets the requirements of this chapter. If existing wells will provide sufficient data, no additional wells are required.

2. Implement the spill prevention, control and countermeasures plan in accordance with Environmental Protection Agency's requirements for

above ground storage tank operations regardless of the quantity of petroleum products on site.

3. Groundwater flow direction, hydraulic gradient, and groundwater table elevation for the subject parcel must be measured at least monthly during active extraction. Monitoring wells must be maintained or replaced with equivalent monitoring wells.

4. Water elevation monitoring data must be retained for two years following completion of reclamation activities and must be provided to the planning director upon request.

5. A qualified professional must annually submit a report to the department that includes water table elevation monitoring data.

6. Operations must not breach or extract material from a confined aquifer or a confining layer beneath a perched aquifer.

   a. If evidence suggests a confined aquifer or confining layer has been breached, or if groundwater or surface water elevation changes rapidly or beyond natural variation, the director must be notified within 24 hours.

      i. A hydrologic assessment, conducted by a qualified professional, to determine the affected area and the nature and degree of effects and a description of potential repair or mitigation options must be submitted to the director within 14 calendar days of notification; and
      ii. Repair or mitigation sufficient to address identified effects must be initiated as soon as practical, not to exceed 45 calendar days from the date the assessment is received by the director.

7. Operations must maintain the following setbacks:

   a. 500 feet from the nearest down-gradient drinking water source;

   b. 350 feet from the nearest cross-gradient drinking water source;

   c. 200 feet from the nearest up-gradient drinking water source; and

   d. Minimum separation distances do not apply to drinking water sources constructed after a permit to extract material below the water table has been issued.

21.29.060. – Reclamation plan.

A. All material site permit applications require an overall reclamation plan. A site plan for reclamation must be required including a scaled drawing with finished contours. A five-year reclamation plan must be submitted with a permit renewal request.

B. The applicant may revegetate and must reclaim all disturbed land within the time period approved with the reclamation plan so as to leave the land in a stable condition wherein a 2:1 slope is maintained. Any revegetation must be done with a non-invasive plant species. Bonding must be required at $750.00 per acre for all acreage included in the current five-year reclamation plan. In the alternative, the planning director may accept a qualified professional's estimate for determining the amount of bonding. If the applicant is bonded with the state, the borough's bonding requirement is waived. Compliance with reclamation plans will be enforced under KPB 21.50.

C. The following measures must be considered in the preparation, approval and implementation of the reclamation plan, although not all will be applicable to every reclamation plan:

1. The area will be backfilled, graded and re-contoured using strippings, overburden, and topsoil so that it will be stabilized to a condition that will allow for revegetation under KPB 21.29.060(B).

2. The topsoil used for reclamation must be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by an independent, professional civil engineer licensed and active in the State of Alaska.

3. Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation must be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.

4. Topsoil mine operations must ensure a minimum of four inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).

5. Ponding may be used as a reclamation method as approved by the planning commission.

6. The area will be reclaimed in a manner that screens the site from becoming a public attractive nuisance and in a manner that is not harmful to public health, safety, and general welfare.

D. The five-year reclamation plan must describe the total acreage to be reclaimed relative to the total excavation plan.

E. *Close-out*. Reclamation plans and requirements survive expiration, termination, or revocation of a permit granted under this chapter. In order to close-out a permit, the planning director must be provided adequate proof that reclamation has been conducted in accordance with the reclamation plan. If a permit expires, terminates, or is revoked prior to permit close-out, the remedies under KPB 21.50 apply and the planning director may hold applicable fines and remedies in abeyance upon a finding that reclamation is actively ongoing.

21.29.065. Effect of permit denial.

A. No reapplication concerning the same counter permit application may be filed within one calendar year of the date of the planning director's final denial action except in the case where new evidence or circumstances exist that were not available or present when the original application was filed.

B. No reapplication concerning the same CLUP may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original application was filed.

C. For the purposes of this section, the applicant bears the burden of proof of demonstrating that new evidence or circumstances exist and that they were not available or present with the original application was filed.

21.29.070. Permit renewal, modification and revocation.

A. Conditional land use permittees must submit a renewal application every five years after the permit is issued. A renewal application must be submitted at least 90 days prior to expiration of the CLUP.

B. The planning director may administratively approve a renewal application that meets the following requirements: (i) the permittee is in compliance with all permit conditions and no modification to operations or conditions are proposed; and (ii) the borough did not issue a notice of violation under the permit during the two calendar years preceding the renewal application. If the renewal application does not satisfy the foregoing requirements or if the planning director determines a review by the planning commission is warranted, then the planning commission will hear the renewal application.

C. In the event the renewal application is heard by the planning commission, the planning commission must hold a public hearing on the renewal application. If the applicant is complying with all permit conditions and requirements and is not in violation of borough code, then the renewal must be granted by the planning commission. Notwithstanding the foregoing, if the commission determines, after public hearing, that discretionary conditions are appropriate on renewal then the commission may modify the CLUP by imposing conditions as deemed appropriate under the circumstances. Permit renewal applications will be denied if the permittee is in violation of the original permit requirements and conditions or borough code. A renewal application heard by the planning commission must be processed in accordance with the notice requirements of KPB 21.25.060.

D. A permittee may request a modification of a CLUP or counter permit, as needed. A modification application will be processed pursuant to KPB 21.29.030 through KPB 21.29.050 with public notice given as provided by KPB 21.25.060. A permit modification is required if the permittee's operations are no longer consistent with the original permit application.

E. The fee for a permit renewal or modification is the same as an original permit application in the amount listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees.

F. Failure to submit a permit renewal will result in the expiration of the permit. The borough may issue a permit termination document upon expiration pursuant to KPB 21.29.080. Once a permit has expired, a new permit application approval process is required in order to operate the material site.

G. Permits may be revoked pursuant to KPB 21.50.

21.29.080. Permit Close-out.

When a permit expires, is revoked, or a permittee requests close-out of their permit, a review of permit conditions and site inspections will be conducted by the planning department to ensure code compliance and verify site reclamation prior to close-out. When the planning director determines that a site qualifies for close-out, a permit close-out document will be issued to the permittee to terminate the permit and associated requirements. Reclamation plans and requirements survive permit expiration and revocation. The planning director is only authorized to close-out a permit following reclamation. A permit close-out determination shall release any bonding associated with the permit.

21.29.100. Recordation.

All permits, permit extensions, modified permits, prior existing uses, and terminations shall be recorded. Failure to record a material site document does not affect the validity of the

documents. The operator or owner of the material site is responsible for all associated permit recording fees.

21.29.110. Violations.

Violations of this chapter shall be governed by KPB 21.50 and this chapter.

21.29.115. Permit transfers.

Permits issued under this chapter do not automatically transfer upon a conveyance or transfer of the applicable real property. The planning director will issue a letter of approval or disapproval upon receipt of the following: (1) a written permit transfer request is provided to the planning department that includes: legal description of the parcel, former owner name, new owner name, and a copy of the approved permit or the legal PEU status; and (2) a recorded conveyance instrument listing the new owner. The requesting party may appeal a disapproval letter to the planning commission. Permit transfer approvals are not subject to administrative appeal.

21.29.120. Prior-existing uses.

A. *Determination.* Prior-existing uses (PEU) in effect on October 1, 2022 are allowed to continue operation subject to the requirements of this section. The burden of proof that the prior-existing use existed before October 1, 2022 is on the applicant. If the planning director denies prior-existing use status, the applicant must comply with the permit requirements of this chapter. Failure to apply for a prior-existing use determination by January 1, 2024 will result in termination of all rights to continued operation as a nonconforming use and require full compliance with all provisions of this chapter.

B. *Decision.* The planning director will give notice of the application for a prior-existing use determination to property owners within 100 feet of the subject parcel boundaries. 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 the planning director issuing a decision. The planning director will issue a decision regarding the prior-existing use status based on the written application, written comments, or evidence regarding the existence of the use. 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 prior-existing use which has ceased by discontinuance for an uninterrupted period of 365 days must thereafter conform to the permit requirements of this chapter. Lack of intent to cease use or abandon the use does not suspend the 365-day time period. If a prior-existing use is discontinued or abandoned, it may not be recommenced.

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

E. *Standards.* In order to qualify as a legal prior-existing use, the use must meet the following standards, on or before October 1, 2022:

1. A use must have been legally established under prior law.

2. A use must be operational in accordance with the type of use.

F. In accordance with 21.29.015, on or before January 1, 2026, all legal prior-existing-use extraction operations shall comply with KPB 21.29.060 (reclamation plan) and applicable hours of operation requirements under this chapter.

G. Materials extraction operations with legal prior-existing use status which extract material below or within four feet of the seasonal highwater table shall conduct operations in accordance with the requirements outlined in KPB 21.29.057, except that KPB 21.29.057(C)(7) will not apply.

H. For the purposes of this section, "increased, intensified, or expanded" means: (1) enlarging the area of excavation; (2) increasing the depth of excavation to go within four feet of the seasonal high-water table; or (3) adding a use that was not in existence as of the date of the PEU status determination, to include adding earth materials processing to a use that did not previously include processing.

21.29.130. Definitions.

A. Unless the context requires otherwise, the following definitions apply to material site permits and activities:

1. *Abandon* means to cease or discontinue a use without intent to resume, but excluding short-term interruptions to use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility or during normal periods of vacation or seasonal closure. An "intent to resume" can be shown through continuous operation of a portion of the facility, maintenance of utilities, or outside proof of continuance, e.g., bills of lading or delivery records. Abandonment also means the cessation of use, regardless of voluntariness, for a specified period of time.

2. *Aggrieved Party* means a party of record adversely impacted by the decision of the hearing officer who participated before the hearing officer either by written or oral presentation.

3. *Aquifer* means a subsurface formation that contains sufficient water-saturated permeable material to yield economical quantities of water to wells and springs.

4. *Aquifer-confining layer* means that layer of relatively impermeable soil below an aquifer, typically clay, which confines water.

5. *Assisted-living home* means a residential facility to which AS 47.33 applies, as described in AS 47.33.010.

6. *Commercial* means any provision of services, sale of goods, or use operated for production of income whether or not income is derived, including sales, barter, rental, or trade of goods and services.

7. *Conditioning or processing material* means a value-added process including batch plants, asphalt plants, screening, washing, and crushing by use of machinery.

8. *Exhausted* means that all material of a commercial quality in a sand, gravel, or material site has been removed.

9. *Groundwater* means, in the broadest sense, all subsurface water, more commonly that part of the subsurface water in the saturated zone.

10. *Inactive site walls* means a wall with a slope steeper than 1.5:1 where there has been no exaction activity for 180 consecutive days.

11. *Isolated pond* means no surface water inlet or outlet is present at any time of the year.

12. *Person* shall include any individual, firm, partnership, association, corporation, cooperative, or state or local government.

13. *Qualified professional* means a licensed professional engineer, hydrologist, hydrogeologist, or other similarly-licensed professional.

14. *Quarter or Quarterly* means January through March, April through June, July through September, or October through December;

15. *Sand, gravel or material site* means an area used for extracting, quarrying, or conditioning gravel or substances from the ground that are not subject to permits through the state location (mining claim) system (e.g., gold, silver, and other metals), nor energy minerals including but not limited to coal, oil, and gas.

16. *Seasonal high groundwater table* means the highest level to which the groundwater rises on an annual basis.

17. *Stable condition* means the rehabilitation, where feasible, of the physical environment of the site to a condition that allows for the reestablishment of renewable resources on the site within a reasonable period of time by natural processes.

18. *Surface water* means water on the earth's surface exposed to the atmosphere such as rivers, lakes, and creeks.

19. *Topsoil* means material suitable for vegetative growth.

20. *Waterbody* means any lake, pond, stream, riparian wetland, or groundwater into which stormwater runoff is directed.

21. *Water source* means a well, spring or other similar source that provides water for human consumptive use.

SECTION 4. That this ordinance is effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2022.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

08/09/22 Vote on motion to introduce and set for public hearing:

Yes:	Bjorkman, Chesley, Cox, Ecklund, Hibbert, Tupper, Johnson
No:	Elam, Derkevorkian
Absent:	None

09/06/22 Vote on motion to postpone to 10/25/22:

Yes:	Bjorkman, Chesley, Cox, Derkevorkian, Ecklund, Elam, Hibbert, Tupper, Johnson
No:	None
Absent:	None

Yes:

No:

Absent:

Kenai Peninsula Borough
Assembly

MEMORANDUM

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

FROM: Richard Derkevorkian, Assembly member RD

DATE: September 20, 2022

SUBJECT: **LAYDOWN Derkevorkian Amendment #1** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

➢ Amend KPB 21.29.010, as follows:

21.29.010. Applicability.

A. This chapter applies to all private and public lands in the borough except where the use is prohibited by ordinance within a local option zoning district or exempt under KPB 21.29.015.

B. This chapter does not apply within the incorporated cities of the Kenai Peninsula Borough.

C. Earth material extraction within 300 linear feet from riparian wetlands and the seasonal high-water level of naturally occurring open water bodies, such as a lake, pond, river, **fish-bearing** stream, or ocean, is prohibited. This prohibition does not apply to **existing** man-made water bodies or isolated ponds of less than one acre on private property **or the construction of waterbodies within the permitted area.**

D. All operations must be conducted in accordance with the current publication of the State of Alaska, Alaska DEC User's Manual Best Management Practices for Gravel/Rock Aggregate Extraction Projects. In the event a provision of this chapter conflicts with the State of Alaska's manual, this chapter controls.

Your consideration of this amendment is appreciated.

MEMORANDUM

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

FROM: Richard Derkevorkian, Assembly member RD

DATE: September 20, 2022

SUBJECT: **LAYDOWN Derkevorkian Amendment #2** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

➢ Amend KPB 21.29.015, as follows:

21.29.015. Material extraction exempt from obtaining a permit.

A. Material extraction which disturbs an area of less than one acre that is not in a mapped flood plain or subject to 21.29.010(B), does not enter the water table, and does not cross property boundaries, does not require a permit. There will be no excavation within **[~~32~~]10** feet of a lot line.

B. Material extraction taking place on dewatered bars within the confines of the Snow River and the streams within the Seward-Bear Creek Flood Service Area do not require a permit, however, operators subject to this exemption must provide the planning department with the information required by KPB 21.29.030(A)(1), (2), (6), (7) and a current flood plain development permit prior to beginning operations.

C. A prior existing use under KPB 21.29.120 does not require a material extraction permit. Notwithstanding the foregoing, on or before January 1, 2026, a prior existing use under KPB 21.29.120 must: (1) provide a reclamation plan under KPB 21.29.060 that is approved by the planning director or designee; and (2) come into compliance with the buffer zone requirements under KPB 21.29.050(A)(1).

D. Material extraction from a public or private property which is necessary for the construction of a public or private development on the same property does not require a material extraction permit.

Your consideration of this amendment is appreciated.

Kenai Peninsula Borough
Assembly

MEMORANDUM

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

FROM: Richard Derkevorkian, Assembly member RD

DATE: September 20, 2022

SUBJECT: **LAYDOWN Derkevorkian Amendment #3** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

➢ Amend KPB 21.29.020, as follows:

21.29.020. Types of permits available.

A. Counter permit. A counter permit is required for earth material extraction which disturbs more than one acre and less than **[~~10~~]2.5** cumulative un-reclaimed acres. Material **[~~processing,~~]** screening **over 500 cubic yards per day, [~~or~~]** crushing, **[~~and material extraction within four feet of the seasonal high-water table~~] and excavation within two feet of a confining layer** is prohibited under a counter permit. **A maximum of five feet excavation, and 7,500 square feet below seasonal high-water table is allowed. The excavation below water table must be 200 feet from the nearest potable water well.** A counter permit is valid for a period of two years. Upon request from the applicant, the planning director, or designee, may grant one 12-month extension on a counter permit. Counter permits are approved by the planning director, or designees, and are not subject to notice requirements under KPB 21.25.060. The planning director's decision to approve or deny a counter permit may be appealed to the planning commission, which must act as the hearing officer, in accordance with KPB 21.20. **The limited excavation within two feet of the seasonal high-water table included in this permit is exempt from KPB 21.29.057.**

B. Conditional land use permit. A conditional land use permit (CLUP) is required for the following types of earth material extraction or uses:

1. **[~~Earth Materials Extraction CLUP. An Earth Materials Extraction CLUP is required for any material extraction which disturbs 10 or more cumulative acres. Material processing, screening or crushing, or extraction within four feet of the seasonal high-water table is prohibited under this permit. The standard conditions set out in KPB 21.29.050 are applicable to this type of CLUP.~~]** **A Type 1 CLUP. A Type 1 CLUP permit is required for earth material extraction which disturbs more than 2.5 cumulative un-reclaimed acres. Material screening over 500 cubic yards per day, or crushing, is prohibited under a type 1 permit. A maximum of five feet excavation below seasonal high-water table is allowed. The excavation below water table must be 200 feet from the nearest potable water well. Excavation within two feet of a confining layer is prohibited. No more than ten percent of the parcels total acreage may be in the water table. The conditions set forth in KPB 21.29.050 plus the conditions set out in KPB 21.29.055 for material extraction processing area applicable to this type of CLUP. The limited excavation within two feet of seasonal high-water table included in this permit is exempt from KPB 21.29.057.**

2. **[~~Earth materials processing~~]** **A Type 2 CLUP. A [~~n Earth Materials Processing~~] Type 2** CLUP is required for any operation that includes earth materials **[~~processing,~~]** screening **over 500 cubic yards per day,** or crushing activities. **A maximum of eight feet excavation below seasonal high-water table is allowed. The excavation below water table must be 200 feet from the nearest potable water well. Excavation within two feet of a confining layer is prohibited. No more than ten percent of the parcels total acreage may be in the water table.** The conditions set forth in KPB 21.29.050 plus the conditions set out in KPB 21.29.055 for material extraction processing area applicable to this type of CLUP. **The limited excavation within two feet of seasonal high-water table included in this permit is exempt from KPB 21.29.057.**

3. **[~~Earth Materials Extraction Within Water Table~~]** **A Type 3** CLUP. A **[~~n Earth Materials Extraction Within Water Table~~] Type 3** CLUP is required for material extraction and operations of any size within **[~~four~~] two** feet of the seasonal high-water table **unless specified exempt from KPB 21.29.057. The excavation below water table must be 200 feet from the nearest**

potable water well. Excavation within two feet of a confining layer is prohibited. Screening and crushing is allowed. The conditions set forth in KPB 21.29.050 plus the requirements and conditions set forth in KPB 21.29.057 for material extraction within **[~~four~~] two** feet of the seasonal high-water table are applicable to this type of CLUP.

An applicant may request a CLUP that includes one, two or all three of the above permit types. A CLUP is valid for a period of five years. A CLUP may be renewed in accordance with KPB 21.29.070. The provisions of KPB Chapter 21.25 are applicable to material site CLUPs and the provisions of KPB 21.25 and 21.29 are read in harmony. If there is a conflict between the provisions of KPB 21.25 and 21.29, the provisions of KPB 21.29 are controlling.

Your consideration of this amendment is appreciated.

Kenai Peninsula Borough
Assembly

MEMORANDUM

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

FROM: Richard Derkevorkian, Assembly member RD

DATE: September 20, 2022

SUBJECT: **LAYDOWN Derkevorkian Amendment #4** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

➢ Amend KPB 21.29.030, as follows:

21.29.030. Application procedure.

A. In order to obtain a counter permit or CLUP under this chapter, an applicant must first complete and submit to the borough planning department a permit application, along with the fee listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees. The planning director may determine that certain contiguous parcels are eligible for a single permit. The application must include the following items, without which the application will be deemed incomplete:

1. Legal description of the parcel, KPB tax parcel ID number, and identification of whether the permit is for the entire parcel, or a specific location within a parcel;

2. Expected life span of the material site;

3. A buffer plan consistent with KPB 21.29.050(A)(1);

4. Reclamation plan consistent with KPB 21.29.060;

5. The depth of excavation;
6. Type of material to be extracted;

7. A site map professional surveyor licensed in the State of Alaska to include the following:

   a. Location of excavation, and, if the site is to be developed in phases, the life span and expected reclamation date for each phase;
   b. Proposed buffers consistent with KPB 21.29.050(A)(1), or alternate buffer plan;
   c. Identification of all encumbrances, including but not limited to, easements;
   d. Points of ingress and egress. Driveway permits must be acquired from either the state or borough as appropriate prior to submitting the application;
   e. Anticipated haul routes; **[~~, contingent on approval from the governmental agency with regulatory jurisdiction over the road;~~]**
   f. Location of any processing areas on the parcel, if applicable;
   g. North arrow;
   h. The scale to which the site plan is drawn;
   i. Preparer's name and date; and
   j. Field verification must include staking the boundary of the parcel at sequentially visible intervals. The planning director may grant an exemption in writing to the staking requirements if the parcel boundaries are obvious or staking is unnecessary.

8. A site plan, **[~~prepared by a qualified independent civil engineer licensed and active in the State of Alaska~~]** to include the following:

   a. Surface water protection measures, if any, for adjacent properties, including the use of diversion channels, interception ditches, on-site collection ditches, sediment ponds and traps, and silt fence;
   b. Location and elevation of test holes, and depth of groundwater, based on the seasonal high-water table. At least one test hole per ten acres of excavated area is required to be dug. The test holes must be at least four feet below the proposed lowest elevation of excavation depth **unless proposed depth is deeper than conventional equipment can dig without stage excavation**;
   c. Location of all private wells of adjacent property owners within 300 feet of the proposed parcel boundary; and
   d. Location of any water body on the parcel, including the location of any riparian wetland as determined by best available data.

9. A statement by the operator of the site that the requirements of KPB 21.29.045 have been satisfied.

B. In order to aid the planning commission or planning director's decision-making process, the planning director may provide vicinity, aerial, land use, and ownership maps for each application and may include additional information.

Your consideration of this amendment is appreciated.

Kenai Peninsula Borough
Assembly

MEMORANDUM

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

FROM: Richard Derkevorkian, Assembly member RD

DATE: September 20, 2022

SUBJECT: **LAYDOWN Derkevorkian Amendment #5** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

➢ Amend KPB 21.29.050, as follows:

21.29.050. Permit conditions applicable to all permits.

A. The planning commission or planning director, as applicable, must impose the following mandatory conditions prior to approval of a permit under this chapter:

1. *Buffer Zone.*

a. **~~[A buffer area of 32 feet must 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 that provides sufficient noise and street-level visual screening; an eight-foot earthen berm with a 2:1 slope; or a minimum eight-foot fence;]~~ The buffer zone for counter permits and CLUPs shall be of sufficient height, density, and setback to provide noise screening of the proposed use to parcels in the vicinity as deemed appropriate by the planning commission or planning director. Buffer requirements shall be made in consideration of and in accordance with existing uses of properties in the vicinity at the time of approval of the permit. There is no requirement to buffer the material site from uses which commence after the approval of the permit.**

b. **A buffer zone shall be established between the area of excavation and the parcel boundaries. The buffer zone for a Type 1 CLUP shall consist of one of the following in any geographical area: fifty feet of natural vegetation, a minimum six-foot fence, or a minimum six-foot earthen berm with a 2:1 slope. The buffer zone for a Type 2 or Type 3 CLUP shall consist of one of the following in any geographical area: fifty feet of natural vegetation, a minimum eight-foot fence, or a minimum ten-foot earthen berm with a 2:1 slope. If the minimum buffers are insufficient to approve the permit, the applicant may modify the proposed buffers with evidence to a sufficient size in consideration of, and in accordance with the existing uses of properties in the vicinity for approval of a permit.**

[~~b.~~]c. A 2:1 slope must be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if the site plan provides the timeframe for removal and verification that suitable, stabilizing material will replace the removed material within 30 days of removal;

[~~c.~~]d. Where an easement exists, a buffer must not overlap the easement, unless otherwise conditioned by the planning commission or planning director, as applicable; and

[~~d.~~]e. This requirement may only be waived upon a finding by the planning director or planning commission, as applicable, that a lot line where the waiver is requested is directly adjacent to another material site.

f. GIS, LIDAR, and photogrammetry may be utilized in the design of the buffer zone when differing elevations exist between the proposed site and properties in the vicinity. Using this technology's line of sight profile drawings from the uppermost inhabitable level of existing properties located in the vicinity may be utilized in the determination of sufficiency of the buffer zone.

g. At its discretion the planning director or planning commission (as applicable) may waive or reduce buffer requirements when screening proves to be not necessary or not feasible.

2. *Water source separation.*

a. Material extraction below or within [**~~four~~**] **two** feet of the seasonal high-water table is prohibited unless the applicant is issued a CLUP Material Extraction Within Water Table Permit and the requirements and conditions set forth in KPB 21.29.057 are satisfied **or the depth and**

size of excavation is exempt from KPB 21.29.057 as specified in the permit;

b. Dewatering either by pumping, ditching or some other form of draining that removes **more than 5,000 gallons of** water **per day** from the site or causes water to leave the site is prohibited **unless permitted by State of Alaska, Department of Natural Resources;**

c. All permits shall be issued with a condition which prohibits any material extraction within 100 linear feet of any private well or **applicable** water source existing prior to original permit issuance; and

d. On site movement of water may be permitted pursuant to KPB 21.29.057 and if: (i) the operator provides a statement under seal and supporting data from a qualified independent civil engineer licensed and active in the State of Alaska that the dewatering will not lower any known water systems; and (ii) the applicant posts a bond for liability for potential accrued damages in an amount equivalent to the cost to replace each water wells within a 300-foot radius of the site. The rebuttable presumption is that the cost per well is a minimum of $10,000.

3. *Roads.* Operations that impact borough roads must be conducted in accordance with the requirements and remedies of KPB Chapter 14.40.

4. *Dust control.* Dust suppression is required on haul roads within the boundaries of the **CLUP** material site by application of water or calcium chloride.

5. *Hours of operation*. Material extraction activities, including equipment operation, may only occur between the hours of 6:00 a.m. and 9:00 p.m. Alaska Standard Time (AKST), or as determined by the planning commission or planning director, as applicable, to be appropriate based on information presented.

   a. **[*~~Seasonal~~*]** ***P****roject-based waiver*. An applicant may request a **[*~~seasonal~~*]** project-based waiver of the hours of operation requirements under this subsection. A waiver granted under this subsection is valid for **up to** six consecutive calendar months. To grant a waiver under this subsection, the commission must find that the waiver is necessary for a specific project, and that the waiver is not harmful to the public health, safety, and general welfare of borough residents.

6. *Groundwater elevation.* All material sites must maintain one monitoring well four feet below the proposed excavation per ten acres of excavated area.

7. *Setback.* Material site excavation areas must be 250 feet from the property boundaries of any [~~**local option zoning district,**~~]existing public school ground, private school ground, college campus, **licensed** childcare facility, multi-purpose senior center, assisted living home, and licensed health care facility. **[~~If overlapping, the buffer areas of the excavation must be in addition to the 250-foot setback.~~]**

8. *Permit boundaries.* The buffers and any easements or right-of-way abutting the proposed permit area must be staked at sequentially visible intervals. Field verification and staking will require the services of a professional land surveyor. Stakes must be in place prior to issuance of the permit.

9. *Processing.* Material extraction of any size that includes processing, screening, or crushing activities is prohibited unless the applicant is issued an Earth Materials Processing CLUP and the conditions set forth in KPB 21.29.055 are imposed on the permit.

B. Discretionary Conditions. The planning commission or planning director, as applicable, may set conditions of approval for issuance of a counter permit or CLUP, as appropriate for the area in which the development is sited, for the following:

1. *Setbacks/Buffer Area.*

a. The mandatory buffer area condition in subsection (A) above may be increased, up to a maximum of 100 feet between the area of excavation and the parcel boundaries, if the planning commission finds based on substantial evidence presented that increasing the buffer area is necessary for the public health, welfare and safety of the surrounding community;

i. Upon request of the applicant, in lieu of any additional buffer area under this subsection designed to separate the use of material site activities from neighboring parcel boundaries, an eight-foot-high berm above the preexisting elevation may be constructed, prior to excavation, around the excavation area. If the excavation site

area expands, the berm may move toward the permitted boundary until such limits of the permitted area are exhausted. The berm must be maintained at eight-foot height while permitted activity is occurring.

b. All other requirements of KPB 21.29.050(A)(1) apply; and
c. When a buffer area has been denuded **less than a year** prior to review of the application by the planning commission or planning director revegetation may be required.

2. *Road* **[~~maintenance and~~]** *repair*. In consultation with the Road Service Area Director, **[~~road maintenance or~~]** repair of public right-of-way haul routes may be required of the permittee.

3. *Ingress and egress*. The planning commission or planning director may **[~~determine~~] suggest** the points of ingress and egress for the material site. The permittee is not required to construct haul routes outside the parcel boundaries of the material site. Driveway authorization must be acquired, from either the state through an "Approval to Construct" or the borough road service area, as appropriate, prior to issuance of a material site permit when accessing a public right-of-way.

4. *Dust suppression*. Dust suppression may be required when natural precipitation is not adequate to suppress the dust generated by the material site traffic on **[~~public right-of-way haul routes~~] haul routes within permit boundaries**.

5. *Surface water protection*. Use of surface water protection measures as specified in KPB 21.29.030(A)(8)(a).

6. *Street-level screening*. Street-level visual screening, noise mitigation, and lighting restrictions as appropriate for the surrounding area and in accordance with the standards set forth in KPB 21.29.040.

Your consideration of these amendments is appreciated.

Kenai Peninsula Borough
Assembly

MEMORANDUM

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

FROM: Richard Derkevorkian, Assembly member RD

DATE: September 20, 2022

SUBJECT: **LAYDOWN Derkevorkian Amendment #6** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

➢ Amend KPB 21.29.055(B), as follows:

21.29.055. Earth materials processing.

[~~**In accordance with KPB 21.29.020(B)(2), an Earth Materials Processing CLUP is required for earth materials processing activities, such as material screening or crushing.**~~] **Prior to issuing a Type 2 CLUP** [~~**permit**~~] under this subsection, the planning commission must impose the mandatory conditions set forth in KPB 21.29.050(A) and discretionary conditions as the planning commission deems appropriate. In addition, the following requirements and permit conditions specific to **a Type 2 CLUP** [~~**an Earth Materials Processing CLUP**~~] apply:

...

B. *Hours of operation.*
   1. Processing equipment may only be operated between **[~~8:00~~]** **7:00** a.m. and 7:00 p.m. AKST, or as determined by the planning commission.

...

Your consideration of this amendment is appreciated.

Kenai Peninsula Borough
Assembly

MEMORANDUM

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

FROM: Richard Derkevorkian, Assembly member RD

DATE: September 20, 2022

SUBJECT: **LAYDOWN Derkevorkian Amendment #7** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

➢ Amend KPB 21.29.057, as follows:

21.29.057. Material extraction below or within **[~~four~~] two** feet of the seasonal high-water table.

In accordance with KPB 21.29.020(B)(3), a CLUP is required for material extraction of material below or within **[~~four~~] two** feet of the seasonal high water table. Prior to a permit being issued the planning commission must impose the mandatory conditions set forth in KPB 21.29.050(A) and discretionary conditions as deemed appropriate. In accordance with KPB 21.29.050(A)(2)(b) dewatering **over 5,000 gallons per day** is prohibited **unless permitted by the State of Alaska, Department of Natural Resources.** The following additional application requirements and permit conditions specific to a Material Extraction within the Water Table CLUP apply:

....

Your consideration of this amendment is appreciated.

Kenai Peninsula Borough
Assembly

MEMORANDUM

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

FROM: Richard Derkevorkian, Assembly member RD

DATE: September 20, 2022

SUBJECT: **LAYDOWN Derkevorkian Amendment #8** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

➢ Amend KPB 21.29.060 as follows:

21.29.060. Reclamation plan.

A. All material site permit applications require an overall reclamation plan. A site plan for reclamation must be required including a scaled drawing with finished contours. A five-year reclamation plan must be submitted with a permit renewal request. **All acreage planned for a post-mining use is exempt from reclamation.**

B. The applicant may revegetate and must reclaim all disturbed land within the time period approved with the reclamation plan **if the planned resource extraction has been exhausted and no post-mining use is planned,** so as to leave the land in a stable condition wherein a 2:1 slope is maintained. Any revegetation must be done with a non-invasive plant species. Bonding must be required at $750.00 per acre for all acreage included in the current five-year reclamation plan. In the alternative, the planning director may accept a qualified professional's estimate for determining the amount of bonding. If the applicant is bonded with the state, the borough's bonding requirement is waived. Compliance with reclamation plans will be enforced under KPB 21.50.

C. The following measures must be considered in the preparation, approval and implementation of the reclamation plan, although not all will be applicable to every reclamation plan:

1. The area will be backfilled, graded and re-contoured using strippings, overburden, and topsoil so that it will be stabilized to a condition that will allow for revegetation under KPB 21.29.060(B).

2. The topsoil used for reclamation must be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by an independent, professional civil engineer licensed and active in the State of Alaska.

3. Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation must be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.

4. Topsoil mine operations must ensure a minimum of four inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).

5. Ponding may be used as a reclamation method as approved by the planning commission.

6. The area will be reclaimed in a manner ~~**[that screens the site from becoming a public attractive nuisance and in a manner]**~~ that is not harmful to public health, safety, and general welfare.

D. The five-year reclamation plan must describe the total acreage to be reclaimed relative to the total excavation plan.

E. *Close-out*. Reclamation plans and requirements survive expiration, termination, or revocation of a permit granted under this chapter. In order to close-out a permit, the planning director must be provided adequate proof that reclamation has been conducted in accordance with the reclamation plan. If a permit expires, terminates, or is revoked prior to permit close-out, the remedies under KPB 21.50 apply and the planning director may hold applicable fines and remedies in abeyance upon a finding that reclamation is actively ongoing.

Your consideration of this amendment is appreciated.

Kenai Peninsula Borough
Assembly

MEMORANDUM

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

FROM: Richard Derkevorkian, Assembly member

DATE: September 20, 2022

SUBJECT: **LAYDOWN Derkevorkian Amendment #9** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

➢ Amend KPB Chapter 21.29 by adding Section 21.29.063, as follows:

21.29.063. Decision.

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 conditions set forth in KPB 21.29.050, KPB 21.29.055, and KPB 21.29.057 or shall deny applications when conditions do not meet the mandatory standards in KPB 21.29.040. The decision shall include written findings detailing how the conditions under KPB 21.29.050, KPB 21.29.055, and KPB 21.29.057 meet, or do not meet the mandatory standards set forth in KPB 21.29.040 and evidence to support those findings. The decision shall be distributed to the parties of record before the planning commission, with notice of right to appeal.

Your consideration of this amendment is appreciated.

Kenai Peninsula Borough
Assembly

MEMORANDUM

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

FROM: Richard Derkevorkian, Assembly member

DATE: September 20, 2022

SUBJECT: **LAYDOWN Derkevorkian Amendment #10** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB Chapter 21.29 by removing Section 21.29.065 in its entirety, as follows:

~~**[21.29.065. Effect of permit denial.**~~

~~**A. No reapplication concerning the same counter permit application may be filed within one calendar year of the date of the planning director's final denial action except in the case where new evidence or circumstances exist that were not available or present when the original application was filed.**~~

~~**B. No reapplication concerning the same CLUP may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original application was filed.**~~

~~**C. For the purposes of this section, the applicant bears the burden of proof of demonstrating that new evidence or circumstances exist and that they were not available or present with the original application was filed.]**~~

Your consideration of this amendment is appreciated.

Kenai Peninsula Borough
Assembly

MEMORANDUM

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

FROM: Richard Derkevorkian, Assembly member

DATE: September 20, 2022

SUBJECT: **LAYDOWN Derkevorkian Amendment #11** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

➢ Amend KPB 21.29.070, as follows:

21.29.070. Permit renewal, modification and revocation.

A. Conditional land use permittees must submit a renewal application every five years after the permit is issued. A renewal application must be submitted at least 90 days prior to expiration of the CLUP.

B. The planning director may administratively approve a renewal application that meets the following requirements: (i) the permittee is in compliance with all permit conditions and no modification to operations or conditions are proposed; and (ii) the borough did not issue a notice of violation under the permit during the two calendar years preceding the renewal application. If the renewal application does not satisfy the foregoing requirements or if the planning director determines a review by the planning commission is warranted, then the planning commission will hear the renewal application.

C. In the event the renewal application is heard by the planning commission, the planning commission must hold a public hearing on the renewal application. If the applicant is complying with all permit conditions and requirements and is not in violation of borough code, then the renewal must be granted by the planning commission. ~~**[Notwithstanding the foregoing, if the commission determines, after public hearing, that discretionary**~~

~~**conditions are appropriate on renewal then the commission may modify the CLUP by imposing conditions as deemed appropriate under the circumstances.**~~] Permit renewal applications will be denied if the permittee is in violation of the original permit requirements and conditions or borough code. **The permittee will be given ninety days to correct violations. If the corrections are met, the permit will be renewed.** A renewal application heard by the planning commission must be processed in accordance with the notice requirements of KPB 21.25.060.

D. A permittee may request a modification of a CLUP or counter permit, as needed. A modification application will be processed pursuant to KPB 21.29.030 through KPB 21.29.050 with public notice given as provided by KPB 21.25.060. A permit modification is required if the permittee's operations are no longer consistent with the original permit application.

E. The fee for a permit renewal or modification is the same as an original permit application in the amount listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees.

F. Failure to submit a permit renewal will result in the expiration of the permit. The borough may issue a permit termination document upon expiration pursuant to KPB 21.29.080. Once a permit has expired, a new permit application approval process is required in order to operate the material site.

G. Permits may be revoked pursuant to KPB 21.50.

Your consideration of this amendment is appreciated.

Kenai Peninsula Borough
Assembly

MEMORANDUM

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

FROM: Richard Derkevorkian, Assembly member

DATE: September 20, 2022

SUBJECT: **LAYDOWN Derkevorkian Amendment #12** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

➢ Amend KPB 21.29.115, as follows:

21.29.115. Permit transfers.

~~[Permits issued under this chapter do not automatically transfer upon a conveyance or transfer of the applicable real property. The planning director will issue a letter of approval or disapproval upon receipt of the following: (1) a written permit transfer request is provided to the planning department that includes: legal description of the parcel, former owner name, new owner name, and a copy of the approved permit or the legal PEU status; and (2) a recorded conveyance instrument listing the new owner. The requesting party may appeal a disapproval letter to the planning commission. Permit transfer approvals are not subject to administrative appeal.~~] **Permits must transfer with the sale or transfer of the real property unless the permittee is currently in violation of the original permit requirements and conditions or borough code. The permittee will be given ninety days to correct violations.**

Your consideration of this amendment is appreciated.

Kenai Peninsula Borough
Assembly

MEMORANDUM

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

FROM: Richard Derkevorkian, Assembly member

DATE: September 20, 2022

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

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

➢ Amend KPB 21.29.120, as follows:

21.29.120. Prior-existing uses.

A. *Determination*. Prior-existing uses (PEU) in effect on October 1, 2022 are allowed to continue operation subject to the requirements of this section. The burden of proof that the prior-existing use existed before October 1, 2022 **and after May 21, 1996,** is on the applicant. **All other PEUs prior to May 21, 1996, are already recorded with the borough and are recognized.** If the planning director denies prior-existing use status, the applicant must comply with the permit requirements of this chapter. Failure to apply for a prior-existing use determination by January 1, 2024 will result in termination of all rights to continued operation as a nonconforming use and require full compliance with all provisions of this chapter.

B. *Decision*. The planning director will give notice of the application for a prior-existing use determination to property owners within 100 feet of the subject parcel boundaries. 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 the planning director issuing a decision. The planning director will issue a decision regarding the prior-existing use status based on the written application, **[~~written comments,~~]** or evidence regarding the existence of the use. 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 prior-existing use which has ceased by discontinuance for an uninterrupted period of **[~~365 days~~]** **five years** must thereafter conform to the permit requirements of this chapter. Lack of intent to cease use or abandon the use does not suspend the **[~~365-day~~]** **five-year** time period. If a prior-existing use is discontinued or abandoned, it may not be recommenced. **Any activity such as extraction, excavation, processing, or reclamation is considered valid and a continuance of site use.**

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

E. *Standards*. In order to qualify as a legal prior-existing use, the use must meet the following standards, on or before October 1, 2022:

1. A use must have been legally established under prior law.

2. A use must be operational in accordance with the type of use.

F. In accordance with 21.29.015, on or before January 1, 2026, all legal prior-existing-use extraction operations shall comply with KPB 21.29.060 (reclamation plan) and applicable hours of operation requirements under this chapter.

[~~G. Materials extraction operations with legal prior-existing use status which extract material below or within four feet of the seasonal highwater table shall conduct operations in accordance with the requirements outlined in KPB 21.29.057, except that KPB 21.29.057(C)(7) will not apply.~~]

[~~H. For the purposes of this section, "increased, intensified, or expanded" means: (1) enlarging the area of excavation; (2) increasing the depth of excavation to go within four feet of the seasonal high-water table; or (3) adding a use that was not in existence as of the date of the PEU status~~

~~determination, to include adding earth materials processing to a use that did not previously include processing.]~~

Your consideration of this amendment is appreciated.

Kenai Peninsula Borough
Assembly

MEMORANDUM

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

FROM: Richard Derkevorkian, Assembly member RD

DATE: September 20, 2022

SUBJECT: **LAYDOWN Derkevorkian Amendment #14** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

➢ Amend KPB 21.29.130, as follows:

21.29.130. Definitions.

A. Unless the context requires otherwise, the following definitions apply to material site permits and activities:

...

8. Earthen berm means a berm constructed of aggregate or soil not to contain slash or brush that maintains a 2:1 slope. The berm is to be constructed above the preexisting elevation.

...

21. Vicinity means 1,000 linear feet from permitted boundary.

Your consideration of this amendment is appreciated.

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
KPB 21.25.050	30-day staff review period of an application.	21-day staff review period of an application.	Increase from 21 to 30 days.	
KPB 21.25.060 - Notice	Notice published on KPB website; public bulletin; mailed to all owners/leaseholders within ½ mile radius of proposed site.	Requires notice published two times in newspaper, posted in the post office, copy of the notice sent by regular mail to all owners and/or leaseholders within one-half mile.	Expressly does not apply to counter permits. No longer requires newspaper publication but allows for publication on KPB website.	
KPB 21.29.005 - Intent and Purpose	Establishes an intent and purpose section for KPB Chapter 21.29 with focus on public health, safety and general welfare, and to promote compatible, orderly development.	N/A	New code section.	
KPB 21.29.010 - Applicability	**A.** Applies to all private and public lands, except as preempted by other law; **B.** Does not apply within the incorporated cities; **C.** Prohibits extraction within 300 feet of riparian wetlands and naturally-occurring open water bodies;	N/A	New code section to clarify applicability of chapter and fact that it does apply to both public and private lands outside of the incorporated cities unless otherwise exempt.	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	D. Operations must be conducted in accordance with current Alaska DEC Manual for extraction projects.			
KPB 21.29.015 -Material extraction exempt from obtaining a permit	**A.** Exempts extraction disturbing less than one acre if: -Not in floodplain; -Does not enter water table; and -Does not cross property boundaries. No excavation within 32' of lot line. **B.** Exempts dewatered bars within SBCFSA/Snow River. **C.** Exempts PEUs but by 2026 must: -Provide reclamation plan -Comply with buffer zone requirements	Currently 21.29.010 **A.** Exempts extraction disturbing less than one acre if: -Not in floodplain; -Does not enter water table; and -Does not cross property boundaries. No excavation within 20 feet of ROW or 10 feet of lot line. **B.** Exempts dewatered bars within SBCFSA/ Snow River. **C.** PEUs exempt but floodplain permit required within mapped special flood hazard area.	New code section. No excavation within 32' of lot lines. PEUs exempt but must provide reclamation plan & comply with buffer zone requirements by 2026.	Require registration of excavation <1 acre. Addresses the concern of how can KPB state no permit required yet stipulate buffer requirements, clarify that the buffer is not part of the 1 acre limitation.

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
KPB 21.29.020- Types of permits available	**Counter permit** -1 to 10 acres -No processing -No water table extraction -Only 21.29.050 conditions apply. **Earth Materials Extraction CLUP** -Activity disturbing more than 10 acres -No processing -No water table extraction -Only 21.29.050 conditions apply **Earth Materials Processing CLUP** -Required for all on-site processing, screening, or crushing -21.29.050 and 21.29.055 conditions apply **Earth Materials Extraction within Water Table CLUP** -Required for all earth materials extraction within water table -21.29.050 and	Counter permit and generic CLUP only. CLUP application requires all mandatory conditions and covers all uses.	Counter permit and three types of CLUPs. 1 to 10 acres eligible for counter permit if no processing or water table extraction. Three different CLUP categories: earth materials extraction (more than ten acres), earth materials processing, and earth materials extraction within water table. Applicant may apply for one, two, or all CLUP types.	**Counter Permits and Earth Materials Extraction CLUP** - Allow for up to 5k gallons of water withdrawal/ day, from well. Require proof of ADNR water withdrawal for amount in excess of 5k/ gallons/ day from a well, not create open pond with active excavation. Open water allowable, but requires water CLUP Allow for up to 500 cubic yards of processing material between hours of 8AM to 6PM. **Earth Materials Processing CLUP** Add blasting as a type of processing. Clarify processing does not mean striping and

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	21.29.057 conditions apply			segregation with excavation equipment.
KPB 21.29.030- Application procedure	Very similar to current procedure. Requires site map from professional surveyor and site plan from professional engineer	-Legal description -Life span -Buffer plan -Reclamation plan -Excavation depth -Type of materials and equipment -Any voluntary permit conditions -Site plan	Breaks apart site map (professional surveyor) from site plan (professional engineer) Application will be deemed incomplete without all items listed. (Not in current code.)	Revise to stipulate that Survey function is limited to existing site conditions prior to any activity. Require engineer w/seal for all future site lay out plans
KPB 21.29.040- Standards for sand, gravel or material sites	Planning Director (counter permits) or Planning Commission (CLUPs) must find: -Use is not inconsistent with applicable comp plan -Use will not be harmful to public's health, safety and general welfare -Provides sufficient setbacks, buffer zones, and other safeguards -Reclamation plan	-Protects against lowering of water sources serving other properties and damage to other properties -Minimizes off-site dust movement, noise disturbance, visual impacts & alternate post-mining land uses	All new standards/"may issue" Focus on legitimate public purpose to protect against damage to public roads and adjacent properties as well as dust, noise and other impacts through setbacks, buffer zones, and street-level visual screening.	Amount of visual screening, if any, is a significant question, which we recognize from public testimony. Significant policy call with legal input.
KPB 21.29.045	Applicants required to demonstrate compliance with state and federal law through written	N/A	New code section. Requires compliance with applicable	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	documentation from pertinent authorities: -Mining license (AK Dept of Revenue) -Mining permit (ADNR) -Permits and plans required by DEC -Permits from USACE, if applicable -Other applicable permits from other regulatory bodies authorized to regulate mining activities or earth materials extraction Must comply with other regulations such as air and water quality, and hazardous materials Violations subject to enforcement under 21.50		state/federal agencies prior to approval of KPB permit. All activity must comply with state/federal regulations governing air/water quality and hazardous materials. Violations subject to enforcement under 21.50.	Explicitly add ADNR for temporary water withdrawals
KPB 21.29.050	**NINE MANDATORY CONDITIONS** **1. Buffers:** 32-foot buffer/may include natural vegetation for street-level visual and noise screening; 8-foot fence or berm with a 2:1	**Buffers:** 50' of undisturbed natural vegetation, or 6' berm with at least 2:1 slope, or 6' fence. Material from slope may be removed if site plan provides removal timeframe and verification material will	Allows flexibility to meet demands of a specific application vs. "one size fits all" of current code. **Buffers:** -Street-level noise and visual screening (as	Berm height needs to be more flexible if screening requirements are to consider more 8' above elevation at property boundaries.

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	slope; 2:1 slope between buffer zone and floor on all inactive site walls. Material from slope may be removed if site plan provides removal timeframe and verification material will be replaced within 30 days. **2. Water source separation:** No extraction below or within 4' of seasonal high-water table unless new section 21.29.057 conditions are met (Material Extraction within Water Table CLUP/see below); no off-site dewatering; no extraction within 100 feet of private well. **3. Roads:** Operations impacting KPB roads must comply with 14.40 and subject to remedies in 14.40. **4. Dust control:** Water or calcium chloride on haul	be replaced within 30 days. Planning Commission may waive where topography or placement of natural barriers make screening not feasible or unnecessary **Water source separation:** No material extraction within 100 horizontal feet of any water source existing prior to permit issuance. Counter permits require four-foot vertical separation from seasonal high water table. CLUPs require two-foot vertical separation from seasonal high water table. No dewatering unless PC grants exemption. **Roads:** Operations impacting KPB roads must comply with KPB 14.40.175 and subject to remedies in 14.40.	opposed to generic "noise and visual screening/impacts -Decrease from 50' vegetation to 32' -Increase from 6' to 8' minimum -Decision-maker may waive if lot line is directly adjacent to another material site **Water source separation:** -Operations within water table governed by new section, 21.29.057 (see below) and require Material Extraction within Water Table CLUP -On site water movement permitted if qualified independent civil engineer provides statement under seal that dewatering will not lower any known water systems and applicant posts bond for potential accrued	Clarify that street level means elevation at property boundaries. "Note adjacent means adjoining in this instance, not separated by a ROW"

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	roads within boundaries of material site **5. Hours of operation**: 6 am-9m but decision-maker may waive for specific seasonal project. Waiver valid for six consecutive months. **6. Groundwater elevation:** Requires groundwater monitoring/one well 4' below proposed excavation per ten acres of excavated area. **7. Setback:** 250' from LOZD/school/senior center/child care facility/etc. **8. Boundaries:** Must stake buffers, ROWs, easements at visible intervals by professional land surveyor. Stakes must be placed prior to permit issuance.	**Dust control:** Water or calcium chloride on haul roads within boundaries of material site **Hours of operation:** Rock crushing equipment shall not be operated between 10 pm and 6 am. **Boundaries:** Staked at sequentially visible intervals where boundaries are within 300' of excavation perimeter. Verification and staking by professional land surveyor. **Processing:** See below.	damages in amount equivalent to replace each water well within 300-foot radius of site. Rebuttable presumption is each well is minimum of $10,000. **Roads/Dust control:** Essentially the same. **Hours of operation:** For all extraction activities, 6 am to 9 pm but decision-maker can waive or adjust for specific seasonal project for period of six consecutive months. **Groundwater elevation:** Requires groundwater monitoring. **Setback:** 250' from LOZD/school/senior center/child care facility/etc.	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	9. Processing: Must comply with conditions in new section 21.29.055 (Earth Materials Processing CLUP/see below.) **SIX DISCRETIONARY CONDITIONS** **1. Setbacks/Buffer Areas:** Up to maximum of 100' if PC finds based on substantial evidence that increase is necessary for public health, welfare, and safety; potential for rolling berms instead. **2. Road maintenance and repair:** Permittee may be required to maintain/repair damaged public roads; requires consultation with RSA Director. **3. Ingress/egress:** Decision-maker may require driveway authorization.		**Boundaries:** Stakes must be placed prior to permit issuance rather than time of application. **Processing:** Requires compliance with new section 21.29.055 and Earth Materials Processing CLUP. Adds discretionary conditions: -Additional setbacks or rolling berms -Maintenance and repair of damaged public roads -Driveway authorization -Dust suppression on public ROWs -Surface water protections as set forth in 21.29.030(A)(8)(a) -Street-level screening as appropriate for surrounding area and	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	4. Dust suppression: On public ROWs when natural precipitation inadequate to suppress dust generated by material site traffic. **5. Surface water protection:** As specified in 21.29.030(A)(8)(a). **6. Street-level screening:** Street-level visual screening, noise mitigation, & lighting restrictions as appropriate for the surrounding area and in accordance with 21.29.040 standards set to protect against attractive nuisance issues.		to protect against attractive nuisances	
KPB 21.29.055- Earth materials processing	In addition to mandatory conditions in 21.29.050(A). **A.** Conditioning or processing equipment must be operated at least 300' from parcel boundaries. PC may waive or reduce distance	300' setback for conditioning or processing equipment. PC may waive or reduce in consideration of and in accordance with existing uses of adjacent property at the time.	New code section. PC may waive or reduce in consideration of and in accordance with existing uses of the "properties in the vicinity". Present code	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	requirement in consideration of and in accordance with existing uses of properties in the vicinity. **B.** Hours of operation for processing equipment between 8am and 7pm or as PC determines. PC may also grant exceptions (not to exceed 120 days) for: -Emergencies -Good cause finding that increase serves public purpose and is not harmful to public health, safety, and general welfare Applicant may request waiver (not to exceed six consecutive months) for specific seasonal project. PC must also find waiver is not harmful to the public health, safety and general welfare.		is "adjacent property". Processing equipment may only be operated between 8am and 7pm, may be increased for emergencies, to serve a public purpose or for specific, seasonal project.	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
KPB 21.29.057- Material extraction in water table	In addition to mandatory conditions in 21.29.050(A). Dewatering prohibited (21.29.050(A)(2)(b)). **A.** Applicant must meet the following requirements prior to applying: 1. Installation of sufficient monitoring wells and test pits to provide qualified professional with adequate information to characterize the entire property that will be permitted for excavation. 2. Under the supervision of a qualified professional, measurement of seasonal high-water table elevation, groundwater flow direction, hydraulic gradient and water table elevation.	Excavation within 300' horizontal feet of water source may be permitted based on: -No negative impact to quantity of an aquifer serving existing water sources; -Minimum of three water monitoring tubes or well casings to determine flow direction, flow rate, and water elevation; and -Quarterly measurements of groundwater elevation, flow direction, and flow rate for at least four quarters prior to application. Tubes or wells must be kept in place for duration of excavation in water table. -Operations shall not breach aquifer-confining layer. No extraction activities within 100 linear feet from waterbodies.	New code section. In addition to 21.29.050 conditions, sets forth additional requirements and conditions primarily to protect water quantity. Qualified professional must be able to characterize entire property permitted for excavation through sufficient monitoring wells and test pits. Qualified professional must supervise measurement of seasonal high-water table elevation, groundwater flow direction, hydraulic gradient and water table elevation. Based upon available data, interpretations of data and knowledge of groundwater	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	3. A qualified professional's report determining the potential adverse effects to groundwater and surface water body elevation and quality, surrounding water users and adjacent properties. Determination based upon available data, interpretations of data and knowledge of groundwater processes. 4. Report must be submitted with CLUP application. Subsection lists what must be included in the report. **B.** Must also include: 1. Description of proposed extent and depth of material extraction beneath seasonal high-water table. 2. Report 21.29.057(A)(4) report, monitoring plan	Additional setback from lakes, rivers, anadromous streams and riparian wetlands may be required. -Permits may contain additional conditions addressing surface water diversion.	processes, qualified professional will report potential detrimental adverse effects to groundwater and surface water body elevation and quality, surrounding water users and adjacent properties. Must be submitted with application and also include extent and depth of extraction beneath seasonal high-water table, spill prevention/control/ countermeasures plan. Conditions: -Implementation of monitoring and spill prevention/control/ countermeasures plan; -Monthly measurement of groundwater and retention of groundwater data for two years after	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	and spill prevention/control/ countermeasures plan. **C.** Conditions 1. Implement monitoring plan 2. Implement spill prevention/control/ countermeasures plan 3. Monthly measurement (during active extraction) of groundwater flow direction, hydraulic gradient and groundwater table elevation 4. Retain water elevation monitoring data for two years after completion of reclamation activities 5. Annual report including water table elevation monitoring data from qualified professional 6. Operations must not breach or extract material from a confined		completion of reclamation activities; -Annual report from qualified professional; -No breach or extraction from a confined aquifer or a confining layer beneath a perched aquifer; and -Setbacks from existing drinking water sources.	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	aquifer or a confining layer beneath a perched aquifer. Subsection sets forth what must be done if there is a breach. 7. Setbacks: -500' from nearest down-gradient drinking water source -350' from nearest cross-gradient drinking water source -200' from nearest up-gradient drinking water source -Do not apply to drinking water sources constructed after permit issued			
KPB 21.29.060 -Reclamation plan	**A.** Reclamation with site plan required. 5 year reclamation plan must be submitted with permit renewal request. **B.** Applicant may re-vegetate and reclaim all disturbed land upon exhausting the material site or time determined	**A.** Reclamation Plan required. **B.** Applicant shall vegetate and reclaim all disturbed land upon exhausting the material site or time determined by plan to leave land in a stable condition.	"May" rather than "shall" revegetate. Bonding required. Plan survives permit termination and must list total acreage to be reclaimed.	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	by plan to leave land in a stable condition. 2:1 slope must be maintained. $750 per acre bond required unless state bond. Enforcement under KPB 21.50. **C.** Measures listed must be considered as part of every reclamation plan, 6 reclamation measures including ponding and protection against public nuisance. **D.** Plan must list total acreage to be reclaimed. **E.** Close-out – reclamation survives permit expiration, termination or revocation.	Reclamation must occur for area exceeding 5 acres prior to 5 year renewal or as PC specifies. **C.** Measures listed must be considered as part of every reclamation plan, 6 reclamation measures including ponding. **D.** Plan must list total acreage to be reclaimed each year, a list of equipment and a time schedule for reclamation measures.	Protection against public nuisance.	
KPB 21.29.065 -Effect of permit denial	**A.** Applicant denied counter permit cannot reapply within same calendar year w/out new evidence or circumstances.	N/A	An applicant cannot immediately reapply for a permit after denial.	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	B. Applicant denied CLUP permit cannot reapply within same calendar year w/out new evidence or circumstances. **C.** Applicant bears burden of proof.			
KPB 21.29.070 -Permit renewal, modification and revocation	**A.** Renewal by application every 5 years. **B.** Administrative approval if compliance with all conditions, no modification and no violation in prior 2 years. **C.** Public hearing on renewal required when there is a modification, permit violation, or as determined by planning director. Permit in compliance with no violations must be approved for renewal but the commission can add additional conditions where appropriate.	**A.** Must request permit extension every 5 years, 30 days prior to expiration. **B.** If no modification to operations or conditions proposed, a permit extension certificate may be issued by planning director. **C.** Extension may be denied if: (1) not in compliance with reclamation requirements; (2)non-compliance with permit conditions; (3) permit violation in last 2 years and still in non-compliance.	Renewal application not request in writing. Possibility for public hearing on renewal and additional discretional conditions on renewal.	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	D. Modifications processed per KPB 21.29.030 -.050 **E.** Renewal fee is same as original permit fee. **F.** Failure to apply for renewal = permit expiration. **G.** Permits revoked per KPB 21.50.	**D.** Modification processed per KPB 21.29.030-.050. **E.** No fee for permit extensions approved by planning director. The fee for a permit modification processed under KPB 21.29.070(D) requires original permit fee. **F.** Failure to apply for renewal = permit expiration. **G.** Permits revoked per KPB 21.50.		
KPB 21.29.080 -Permit Close-out	Requires permittee to request close-out of permit and verification of reclamation compliance. Bonding released at close-out.	Current code section is titled "Permit Termination" and provides for a termination document and verification of site reclamation.	Terminology change from permit "termination" to "close-out". Explicit that reclamation requirement survives permit expiration or revocation & that bonds are released upon close-out.	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
KPB 21.29.100 -Recordation	Provides for recordation of permits, etc. issued under KPB 21.29. Owner/operator responsible for cost.	Similar recordation requirement.	Owner/operator responsible for recording costs.	
KPB 21.29.110 -Violations	Violations governed by KPB 21.50.	Same but also has subsection (B) which provides for bonding if owner/operator has 3 violations within a 3-year period.	Violations governed by KPB 21.50 remain unchanged. No subsection B related to bonding requirement if there are 3 violations in 3 year period.	
KPB 21.29.115 -Permit transfers	Planning director approves or disapproves permit transfers. Permits do not run with the land.	N/A	New section of code.	
KPB 21.29.120 -Prior-existing uses	**A.** Determination – mirrors process under KPB 21.44 (LOZD) for nonconforming-use determination **B.** Director provides notice of application and issues decision. Decision can be appealed to the Planning Commission. **C.** Establishes 365-day period for abandonment.	**A.** Requires determination that use as a material site commenced or operated after May 21, 1986 and prior to May 21, 1996. Limited subdivision rights. PEU runs with land. **B.** Must have applied to be registered as a PEU prior to January 1, 2001.	By 1/1/2026, PEUs required to come into compliance with: -Reclamation requirements; -Hours of operation; & -Buffer area. 365 period of nonuse/ no operations = Abandonment	Modify 365 days of no use to: 5years=abandonment

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	D. Prohibits increasing, intensifying or expanding or moving the use. **E.** Establishes standards to guide decision-making process. **F.** Requires PEU compliance with KPB 21.29 reclamation plan and hours of operation by January 1, 2026. **G.** Requires PEU compliance with code requirements for extraction within water table under KPB 21.29.057, except the water source separation requirements do not apply.	**C.** Abandonment if no operation as a material site between 5/21/1996 and 5/21/2011. Owner may protest finding of abandonment and may appeal decision to the Planning Commission.		F. ADD some flexibility to the acceptable reclamation plans for PEUs that can demonstrate hardship in achieving standards. i.e.: Topsoil requirements *Sites that have not planned for this may have undue hardship.*

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Mike Tupper, Assembly Member MT

DATE: October 13, 2022

SUBJECT: **Tupper Amendment #1** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.020(A), as follows:

21.29.020. Types of permits available.

A. Counter permit. A counter permit is required for earth material extraction which disturbs more than one acre and less than **2.5** cumulative unreclaimed acres. Material processing, screening, or crushing, and material extraction within four feet of the seasonal high-water table is prohibited under a counter permit. A counter permit is valid for a period of two years. Upon request from the applicant, the planning director, or designee, may grant one 12-month extension on a counter permit. Counter permits are approved by the planning director, or designees, and are not subject to notice requirements under KPB 21.25.060. The planning director's decision to approve or deny a counter permit may be appealed to the planning commission, which must act as the hearing officer, in accordance with KPB 21.20.

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Mike Tupper, Assembly Member MT

DATE: October 13, 2022

SUBJECT: **Tupper Amendment #2** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.020(B), as follows:

21.29.020. Types of permits available.

B. Conditional land use permit. A conditional land use permit (CLUP) is required for the following types of earth material extraction or uses:

1. **[~~Earth Materials Extraction CLUP. An Earth Materials Extraction CLUP is required for any material extraction which disturbs 10 or more cumulative acres. Material processing, screening or crushing, or extraction within four feet of the seasonal high-water table is prohibited under this permit. The standard conditions set out in KPB 21.29.050 are applicable to this type of CLUP.~~]** **Type 1 CLUP. Earth Materials Extraction with Restricted Processing CLUP. An Earth Materials Extraction with Restricted Processing CLUP is required for any material extraction which disturbs 2.5 or more cumulative acres. Processing is restricted to one portable two-deck screen capable of screening or classifying material, limited to a maximum of 500 cubic yards per day. Extraction within four feet of the seasonal high-water able is prohibited under this permit. The conditions set out in KPB 21.29.050 and .055 are applicable to this type of CLUP.**

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2. **~~[Earth materials processing]~~ Type 2 CLUP. A ~~[n Earth Materials Processing]~~ Type 2** CLUP is required for any operation that includes earth materials processing, screening or crushing activities. The conditions set forth in KPB 21.29.050 plus the conditions set out in KPB 21.29.055 for material extraction processing area applicable to this type of CLUP.

3. **~~[Earth Materials Extraction Within Water Table]~~ A Type 3** CLUP. A **~~[n Earth Materials Extraction Within Water Table]~~ Type 3** CLUP is required for material extraction and operations of any size within four feet of the seasonal high-water table. The conditions set forth in KPB 21.29.050 plus the requirements and conditions set forth in KPB 21.29.057 for material extraction within four feet of the seasonal high-water table are applicable to this type of CLUP.

An applicant may request a CLUP that includes one, two or all three of the above permit types. A CLUP is valid for a period of five years. A CLUP may be renewed in accordance with KPB 21.29.070. The provisions of KPB Chapter 21.25 are applicable to material site CLUPs and the provisions of KPB 21.25 and 21.29 are read in harmony. If there is a conflict between the provisions of KPB 21.25 and 21.29, the provisions of KPB 21.29 are controlling.

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Mike Tupper, Assembly Member MT

DATE: October 13, 2022

SUBJECT: **Tupper Amendment #3** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.040, as follows:

21.29.040. Standards for sand, gravel or material sites.

A. These material site regulations are intended to protect against aquifer disturbance, road damage, physical damage to adjacent properties, dust, noise, **visual,** and other impacts of earth materials extraction to properties in the vicinity through setbacks and buffer zones. Prior to granting a counter permit or a conditional land use permit under this chapter, the planning director or planning commission, as applicable, must make the following findings:

1. That the use is not inconsistent with the applicable comprehensive plan;

2. That the use will not be harmful to the public's health, safety, and general welfare;

3. That sufficient setbacks, buffer zones, and other safeguards are being provided consistent with this chapter; **[~~and~~]**

4. That the use provides for a reclamation plan consistent with this chapter**[~~.~~] ; and**

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5. **That the use will preserve the value and character of the surrounding area.**

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

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

FROM: Mike Tupper, Assembly Member MT

DATE: November 15, 2022

SUBJECT: **Tupper Amendment #4 Replacement** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.050(A)(1) and (2), as follows:

21.29.050. Permit conditions applicable to all permits.

A. The planning commission or planning director, as applicable, must impose the following mandatory conditions prior to approval of a permit under this chapter:

1. Buffer Zone.

a. **~~[A buffer area of 32 feet must 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 that provides sufficient noise and street-level visual screening; an eight-foot earthen berm with a 2:1 slope; or a minimum eight-foot fence;]~~ The buffer zone for counter permits and CLUPs shall be of sufficient height, density, and setback to provide visual and noise screening of the proposed use to parcels in the vicinity as deemed appropriate by the planning commission or planning director. Buffer requirements shall be made in consideration of and in accordance with existing uses of properties in the vicinity at the time of approval of the permit. There is no requirement to buffer the material site from uses which commence after the approval of the permit.**

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b. **A buffer zone shall be established between the area of excavation and the parcel boundaries. The buffer zone for a Counter Permit and a Type 1 CLUP shall consist of one or any combination of the following: Fifty feet of natural vegetation, a minimum six-foot fence, a minimum six-foot earthen berm with a minimum 2:1 slope. The buffer zone for a Type 2 or a Type 3 CLUP shall consist of one of the following: Minimum eight-foot fence, or a minimum fifty feet of natural vegetation and a minimum ten-foot earthen berm with a minimum 2:1 slope.**

[~~b.~~]c. A 2:1 slope must be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if the site plan provides the timeframe for removal and verification that suitable, stabilizing material will replace the removed material within 30 days of removal;

[~~c.~~]d. Where an easement exists, a buffer must not overlap the easement, unless otherwise conditioned by the planning commission or planning director, as applicable; and

[~~d.~~]e. This requirement may **[~~only~~]** be waived upon a finding by the planning director or planning commission, as applicable, that a lot line where the waiver is requested is **[~~directly adjacent to~~]** **adjoining** another material site **or industrial use**.

f. Geographic Information System (GIS), photogrammetry, or LIDAR may be utilized in the design of the buffer zone when differing elevations exist between the proposed site and properties in the vicinity. Using this technology, line of sight profile drawings from the uppermost inhabitable level of existing properties located in the vicinity may be utilized in the determination of sufficiency of the buffer zone.

g. At its discretion the planning director or planning commission (as applicable) may waive or reduce buffer requirements when screening proves to be not necessary or not feasible.

2. *Water source separation*.

a. Material extraction below or within four feet of the seasonal high-water table is prohibited unless the applicant is issued a CLUP Material Extraction Within Water Table Permit and the requirements and conditions set forth in KPB 21.29.057 are satisfied;

b. Dewatering either by pumping, ditching or some other form of draining that removes water from the site or causes water to leave the site is prohibited;

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c. All permits shall be issued with a condition which prohibits any material extraction within 100 linear feet of any private well or water source existing prior to original permit issuance; and
d. On site movement of water may be permitted pursuant to KPB 21.29.057 and if: (i) the operator provides a statement under seal and supporting data from a qualified independent civil engineer licensed and active in the State of Alaska that the dewatering will not lower any known water systems; and (ii) the applicant posts a bond for liability for potential accrued damages in an amount equivalent to the cost to replace each water wells within a 300-foot radius of the site. The rebuttable presumption is that the cost per well is a minimum of $10,000.
e. All permits shall be issued with a condition which prohibits any material extraction inside the boundaries of a mapped tsunami hazard zone within 500 linear feet of any existing private well or water source.

Your consideration of these amendments is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Mike Tupper, Assembly Member MT

DATE: October 13, 2022

SUBJECT: **Tupper Amendment #5** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.050(B), as follows:

21.29.050. Permit conditions applicable to all permits.

B. Discretionary Conditions. The planning commission or planning director, as applicable, may set conditions of approval for issuance of a counter permit or CLUP, as appropriate for the area in which the development is sited, for the following:

1. *Setbacks/Buffer Area.*

a. The mandatory buffer area condition in subsection (A) above may be increased **[~~, up to a maximum of 100 feet~~]** between the area of excavation and the parcel boundaries if the planning commission finds based on substantial evidence presented that increasing the buffer area is necessary for the public health, welfare and safety of the **[~~surrounding community~~]** **vicinity**;

i. **[~~Upon request of the applicant, in lieu of any additional buffer area under this subsection designed to separate the use of material site activities from neighboring parcel boundaries, an eight-foot-high berm above the preexisting elevation may be constructed, prior to excavation, around the excavation area. If the excavation site area expands, the berm may move toward the permitted~~**

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~~boundary until such limits of the permitted area are exhausted. The berm must be maintained at eight-foot height while permitted activity is occurring.~~] The planning commission may require that an earthen berm with a minimum 2:1 slope of the height determined by the planning commission under KPB 21.29.050 shall be constructed above preexisting elevation around the excavation area. As the excavation area expands, the berm shall be moved toward negatively-impacted properties in the vicinity until such limits of the permitted area are exhausted. The berm must be maintained at the predetermined height while permitted activity is occurring. This earthen berm may be in addition to other buffer zone conditions imposed by the planning commission, or required by KPB 21.29.050.

b. All other requirements of KPB 21.29.050(A)(1) apply; and
c. When a buffer area has been denuded **less than a year** prior to review of the application by the planning commission or planning director revegetation may be required.

2. *Road* **[*~~maintenance and~~*]** *repair*. In consultation with the Road Service Area Director, **[~~road maintenance or~~]** repair of public right-of-way haul routes may be required of the permittee.

3. *Ingress and egress*. The planning commission or planning director may **[~~determine~~] suggest** the points of ingress and egress for the material site. The permittee is not required to construct haul routes outside the parcel boundaries of the material site. Driveway authorization must be acquired, from either the state through an "Approval to Construct" or the borough road service area, as appropriate, prior to issuance of a material site permit when accessing a public right-of-way.

4. *Dust suppression*. Dust suppression may be required when natural precipitation is not adequate to suppress the dust generated by the material site traffic on **[~~public right-of-way haul routes~~] haul routes within permit boundaries**.

5. *Surface water protection.* Use of surface water protection measures as specified in KPB 21.29.030(A)(8)(a).

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~~***[6. Street-level screening*. Street-level visual screening, noise mitigation, and lighting restrictions as appropriate for the surrounding area and in accordance with the standards set forth in KPB 21.29.040.]***~~

7. ***Noise suppression*. At the discretion of the planning commission or planning director, as applicable, multi-frequency (white noise) back-up alarms may be required on all equipment and vehicular traffic on site as a condition to help meet the noise impact standard in accordance with and in consideration of existing uses in the vicinity.**

Your consideration of these amendments is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Mike Tupper, Assembly Member MT

DATE: October 13, 2022

SUBJECT: **Tupper Amendment #6** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.050 by adding KPB 21.29.050(C), as follows:

21.29.050. Permit conditions applicable to all permits.

C. Volunteered Permit Conditions. Conditions may be included in the permit upon agreement of the permittee and approval of the planning commission or planning director, as applicable. Such conditions must be consistent with the standards set forth in KPB 21.29.040. Planning commission approval of such conditions shall be contingent upon a finding that the condition will be in the best interest of the borough and surrounding property owners. Volunteered permit conditions apply to the subject parcel and operation, regardless of a change in ownership. A change in volunteered conditions may be proposed at permit renewal.

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

Thru: Mike Navarre, Mayor MN
Max Best, Chief of Staff MB

FROM: Robert Ruffner, Planning Director RR

DATE: October 13, 2022

SUBJECT: **Administrative Amendment #1** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.010, as follows:

21.29.010. Applicability.

A. This chapter applies to all private and public lands in the borough except where the use is prohibited by ordinance within a local option zoning district or exempt under KPB 21.29.015.

B. This chapter does not apply within the incorporated cities of the Kenai Peninsula Borough.

C. Earth material extraction within 300 linear feet from riparian wetlands and the seasonal high-water level of naturally occurring open water bodies, such as a lake, pond, river, stream, or ocean, is prohibited. This prohibition does not apply to man-made water bodies or isolated ponds of less than one acre on private property.

D. All operations must be conducted in accordance with the current publication of the State of Alaska, Alaska DEC User's Manual Best Management Practices for Gravel/Rock Aggregate Extraction Projects. In

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the event a provision of this chapter conflicts with the State of Alaska's manual, this chapter controls.

E. Up to 5,000 gallons of water per day may be withdrawn from a well. Proof of an ADNR use authorization is required for withdrawal of water in excess of 5,000 gallons per day from a well, as long as there is no open pond with active excavation. Open water is allowed only with an approved settling pond per KPB 21.29.055 or in conjunction with a CLUP approved pursuant to KPB 21.29.057 (earth materials extraction within the water table CLUP).

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

Thru: Mike Navarre, Mayor MN
Max Best, Chief of Staff MB

FROM: Robert Ruffner, Planning Director RR

DATE: October 13, 2022

SUBJECT: **Administrative Amendment #2** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.015, as follows:

21.29.015. Material extraction exempt from obtaining a permit.

A. Material extraction which disturbs an area of less than one acre that is not in a mapped flood plain or subject to 21.29.010(B), does not enter the water table, and does not cross property boundaries, does not require a permit. **[~~There will be no excavation within 32 feet of a lot line.~~] An owner or operator exempt under this subsection must register with the borough on a form provided by the planning department and must comply with KPB 21.29.010(C).**

B. Material extraction taking place on dewatered bars within the confines of the Snow River and the streams within the Seward-Bear Creek Flood Service Area do not require a permit, however, operators subject to this exemption must provide the planning department with the information required by KPB 21.29.030(A)(1), (2), (6), (7) and a current flood plain development permit prior to beginning operations.

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C. A prior existing use **that is in full compliance with all provisions of [~~under~~]** KPB 21.29.120 does not require a material extraction permit. **[~~Notwithstanding the foregoing, on or before January 1, 2026, a prior existing use under KPB 21.29.120 must: (1) provide a reclamation plan under KPB 21.29.060 that is approved by the planning director or designee; and (2) come into compliance with the buffer zone requirements under KPB 21.29.050(A)(1).~~]**

~~D. A 300-foot buffer from riparian and riverine wetlands must be maintained.~~

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

Thru: Mike Navarre, Mayor MN
Max Best, Chief of Staff MB

FROM: Robert Ruffner, Planning Director RR

DATE: October 13, 2022

SUBJECT: **Administrative Amendment #3** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.030, as follows:

21.29.030. Application procedure.

A. In order to obtain a counter permit or CLUP under this chapter, an applicant must first complete and submit to the borough planning department a permit application, along with the fee listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees. The planning director may determine that certain contiguous parcels are eligible for a single permit. The application must include the following items, without which the application will be deemed incomplete:

1. Legal description of the parcel, KPB tax parcel ID number, and identification of whether the permit is for the entire parcel, or a specific location within a parcel;

2. Expected life span of the material site;

3. A buffer plan consistent with KPB 21.29.050(A)(1);

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4. Reclamation plan consistent with KPB 21.29.060;

5. The depth of excavation;
6. Type of material to be extracted;

7. A site map professional surveyor licensed in the State of Alaska to include the following:

   a. **~~[Location of excavation, and, if the site is to be developed in phases, the life span and expected reclamation date for each phase]~~ Location and elevation of test holes, and depth of groundwater, based on the seasonal high-water table. At least one test hole per ten acres of excavated area is required to be dug. The test holes must be at least four feet below the proposed lowest elevation of excavation depth;**
   b. **~~[Proposed buffers consistent with KPB 21.29.050(A)(1), or alternate buffer plan]~~ Location of all private wells of adjacent property owners within 300 feet of the proposed parcel boundary;**
   c. Identification of all encumbrances, including but not limited to, easements;
   d. Points of ingress and egress. Driveway permits must be acquired from either the state or borough as appropriate prior to submitting the application;
   ~~[e. Anticipated haul routes, contingent on approval from the governmental agency with regulatory jurisdiction over the road~~;
   ~~[f.~~] e. ~~[Location of any processing areas on the parcel, if applicable]~~ Identify and label all drainage features entering and exiting property;
   ~~[g.~~] f. Location of any water body on the parcel, including the location of any riparian wetland as determined by best available data;
   g. North arrow;
   ~~[h.~~] h. The scale to which the site plan is drawn;
   ~~[i.~~] i. Preparer's name and date; and
   ~~[j.~~] j. Field verification must include staking the boundary of the parcel at sequentially visible intervals. The planning director may grant an exemption in writing to the staking requirements if the parcel boundaries are obvious or staking is unnecessary.

8. A site plan, prepared by a qualified independent civil engineer licensed and active in the State of Alaska to include the following:

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a. Surface water protection measures, if any, for adjacent properties, including the use of diversion channels, interception ditches, on-site collection ditches, sediment ponds and traps, and silt fence;
b. **~~[Location and elevation of test holes, and depth of groundwater, based on the seasonal high-water table. At least one test hole per ten acres of excavated area is required to be dug. The test holes must be at least four feet below the proposed lowest elevation of excavation depth;]~~ Location of excavation, and, if the site is to be developed in phases, the life span and expected reclamation date for each phase**;
c. **~~[Location of all private wells of adjacent property owners within 300 feet of the proposed parcel boundary;]~~ Proposed buffers consistent with KPB 21.29.050(A)(1), or alternate buffer plan; ~~and~~**
~~[d. Location of any water body on the parcel, including the location of any riparian wetland as determined by best available data.]~~;
d. Anticipated haul routes, contingent on approval from the governmental agency with regulatory jurisdiction over the road; and
e. Location of any processing areas on the parcel, if applicable.

9. A statement by the operator of the site that the requirements of KPB 21.29.045 have been satisfied.

B. In order to aid the planning commission or planning director's decision-making process, the planning director may provide vicinity, aerial, land use, and ownership maps for each application and may include additional information.

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

Thru: Mike Navarre, Mayor MN
Max Best, Chief of Staff MB

FROM: Robert Ruffner, Planning Director RR

DATE: October 13, 2022

SUBJECT: **Administrative Amendment #4** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.045, as follows:

21.29.045. Required compliance with State and Federal laws

A. All applicants for permits for earth materials extraction are required to demonstrate compliance with state and federal law. Prior to final approval of the permit, the applicant or agent must provide written documentation from the permitting agency of compliance with the following:

1. **[Mining license as required by the Alaska State Department of Revenue, pursuant to AS 43.65] An Alaska State Department of Natural Resources (ADNR) temporary water use authorization if the Applicant intends for water to leave the site. If water leaves the site, the applicant must adhere to the provisions of the ADNR temporary water use authorization;**

2. Mining permit as required by **[the Alaska State Department of Natural Resources (]** ADNR **[)]** if extraction activities are to take place on state land;

3. Reclamation plan as required by ADNR, pursuant to A.S. 27.19;

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4. Notice of intent for construction general permit or multi-sector general permit and storm water pollution prevention plan, and other associated permits or plans required by the Department of Environmental Conservation (DEC) pursuant to the Alaska Pollutant Discharge Elimination System (APDES) requirements;

5. United States Army Corps of Engineers (USACE) permit pursuant to Section 404 of the Clean Water Act, 33 U.S.C. 1344, if material extraction activity requires USACE approval; and

6. Any other applicable state or federal agency with regulatory authority of mining activities or earth materials extraction.

B. In addition to the requirements in subsection (A) of this section, all activity must be conducted in compliance with state or federal regulations governing the items listed below. Written documentation of compliance with these regulations is not required. Complaints received by the borough of violations of requirements within this section will be forwarded to the appropriate agency for enforcement, this includes but is not limited to:

1. *Air quality*.

   a. EPA air quality control permit is required for asphalt plants and crushers;
   b. ADNR burn permit is required for brush or stump burning. Combustibles must be stockpiled separate from noncombustibles, and burn permit requirements must be followed; and
   c. ADEC dust control and air quality regulations pertaining to burning activities must be followed.

2. *Water quality*. EPA or ADEC regulations controlling spills, spill reporting, storage and disposal of oil, anti-freeze and hydrocarbons.

3. *Hazardous Materials*. Use and storage of hazardous materials, waste and explosives.

   a. EPA regulations controlling use of hazardous materials must be followed; and
   b. U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives regulations must be followed when storing or using explosives.

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C. Failure to comply with any of the requirements in subsections (A) and (B) of this section is a violation of the permit, and is subject to enforcement pursuant to KPB Chapter 21.50.

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

Thru: Mike Navarre, Mayor MN
Max Best, Chief of Staff MB

FROM: Robert Ruffner, Planning Director RR

DATE: October 13, 2022

SUBJECT: **Administrative Amendment #5** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.050, as follows:

21.29.050. Permit conditions applicable to all permits.

A. The planning commission or planning director, as applicable, must impose the following mandatory conditions prior to approval of a permit under this chapter:

1. *Buffer Zone.*

a. A buffer area of 32 feet must 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 that provides sufficient noise and street-level visual screening; an eight-foot earthen berm with a 2:1 slope; or a minimum eight-foot fence**. Berms should not alter natural drainage features**;

b. A 2:1 slope must be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if the site plan provides

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the timeframe for removal and verification that suitable, stabilizing material will replace the removed material within 30 days of removal;

c. Where an easement exists, a buffer must not overlap the easement, unless otherwise conditioned by the planning commission or planning director, as applicable; and

d. This requirement may only be waived upon a finding by the planning director or planning commission, as applicable, that a lot line where the waiver is requested is directly adjacent to another material site.

2. *Water source separation*.

a. Material extraction below or within four feet of the seasonal high-water table is prohibited unless the applicant is issued a CLUP Material Extraction Within Water Table Permit and the requirements and conditions set forth in KPB 21.29.057 are satisfied;

b. Dewatering either by pumping, ditching or some other form of draining that removes water from the site or causes water to leave the site is prohibited;

c. All permits shall be issued with a condition which prohibits any material extraction within 100 linear feet of any private well or water source existing prior to original permit issuance; and

d. On site movement of water may be permitted pursuant to KPB 21.29.057 and if: (i) the operator provides a statement under seal and supporting data from a qualified independent civil engineer licensed and active in the State of Alaska that the dewatering will not lower any known water systems; and (ii) the applicant posts a bond for liability for potential accrued damages in an amount equivalent to the cost to replace each water wells within a 300-foot radius of the site. The rebuttable presumption is that the cost per well is a minimum of $10,000.

3. *Roads.* Operations that impact borough roads must be conducted in accordance with the requirements and remedies of KPB Chapter 14.40.

4. *Dust control.* Dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.

5. *Hours of operation*. Material extraction activities, including equipment operation, may only occur between the hours of 6:00 a.m. and 9:00 p.m. Alaska Standard Time (AKST), or as determined by the planning

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commission or planning director, as applicable, to be appropriate based on information presented.

a. *Seasonal, project-based waiver*. An applicant may request a seasonal, project-based waiver of the hours of operation requirements under this subsection. A waiver granted under this subsection is valid for six consecutive calendar months. To grant a waiver under this subsection, the commission must find that the waiver is necessary for a specific project, and that the waiver is not harmful to the public health, safety, and general welfare of borough residents.

6. *Groundwater elevation.* All material sites must maintain one monitoring well four feet below the proposed excavation per ten acres of excavated area.

7. *Setback.* Material site excavation areas must be 250 feet from the property boundaries of any **[~~local option zoning district,~~]** existing public school ground, private school ground, college campus, childcare facility, multi-purpose senior center, assisted living home, and licensed health care facility. If overlapping, the buffer areas of the excavation must be in addition to the 250-foot setback.

8. *Permit boundaries.* The buffers and any easements or right-of-way abutting the proposed permit area must be staked at sequentially visible intervals. Field verification and staking will require the services of a professional land surveyor. Stakes must be in place prior to issuance of the permit.

9. *Processing.* Material extraction of any size that includes processing, screening, or crushing activities is prohibited unless the applicant is issued an Earth Materials Processing CLUP and the conditions set forth in KPB 21.29.055 are imposed on the permit.

B. Discretionary Conditions. The planning commission or planning director, as applicable, may set conditions of approval for issuance of a counter permit or CLUP, as appropriate for the area in which the development is sited, for the following:

1. *Setbacks/Buffer Area*.

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a. The mandatory buffer area condition in subsection (A) above may be increased, up to a maximum of 100 feet between the area of excavation and the parcel boundaries, if the planning commission finds based on substantial evidence presented that increasing the buffer area is necessary for the public health, welfare and safety of the surrounding community;

   i. Upon request of the applicant, in lieu of any additional buffer area under this subsection designed to separate the use of material site activities from neighboring parcel boundaries, an eight-foot-high berm above the preexisting elevation may be constructed, prior to excavation, around the excavation area. If the excavation site area expands, the berm may move toward the permitted boundary until such limits of the permitted area are exhausted. The berm must be maintained at eight-foot height while permitted activity is occurring.

b. All other requirements of KPB 21.29.050(A)(1) apply; and
c. When a buffer area has been denuded prior to review of the application by the planning commission or planning director revegetation may be required.

2. *Road maintenance and repair*. In consultation with the Road Service Area Director, road maintenance or repair of public right-of-way haul routes may be required of the permittee.

3. *Ingress and egress*. The planning commission or planning director may determine the points of ingress and egress for the material site. The permittee is not required to construct haul routes outside the parcel boundaries of the material site. Driveway authorization must be acquired, from either the state through an "Approval to Construct" or the borough road service area, as appropriate, prior to issuance of a material site permit when accessing a public right-of-way.

4. *Dust suppression*. Dust suppression may be required when natural precipitation is not adequate to suppress the dust generated by the material site traffic on public right-of-way haul routes.

5. *Surface water protection.* Use of surface water protection measures as specified in KPB 21.29.030(A)(8)(a).

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6. *Street-level screening*. Street-level visual screening, noise mitigation, and lighting restrictions as appropriate for the surrounding area and in accordance with the standards set forth in KPB 21.29.040.

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

Thru: Mike Navarre, Mayor MN
Max Best, Chief of Staff MB

FROM: Robert Ruffner, Planning Director RR

DATE: October 13, 2022

SUBJECT: **Administrative Amendment #6** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.055, as follows:

21.29.055. Earth materials processing.

In accordance with KPB 21.29.020(B)(2), a n Earth Materials Processing CLUP is required for earth materials processing activities, such as material screening or crushing. Prior to issuing a permit under this subsection, the planning commission must impose the mandatory conditions set forth in KPB 21.29.050(A) and discretionary conditions as the planning commission deems appropriate. In addition, the following requirements and permit conditions specific to an Earth Materials Processing CLUP apply:

A. *Setback.* In the case of a CLUP, any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries. At its discretion, the planning commission may waive the 300-foot processing distance requirement, or allow a lesser distance in consideration of and in accordance with existing uses of the properties in the vicinity at the time of approval of the permit.

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B. *Hours of operation.*

1. Processing equipment may only be operated between 8:00 a.m. and 7:00 p.m. AKST, or as determined by the planning commission.

2. The planning commission may grant exceptions to increase the hours of operation and processing in the event of an emergency or a good-cause finding that the increased hours of operation serve a public purpose and are not harmful to the public health, safety, and general welfare of borough residents. Such an exception shall not exceed 120 days.

2. Seasonal, project-based waiver. An applicant may request a seasonal, project-based waiver of the hours of operation requirements under this section. A waiver granted under this subsection is valid for six consecutive calendar months. To grant a waiver under this subsection, the commission must find that the waiver is necessary for a specific project, and that the waiver is not harmful to the public health, safety, and general welfare of borough residents.

C. Onsite retention of settling pond water is allowed, including for the washing of materials, provided that the settling pond is not created by channeling or redirecting natural water bodies or natural drainage. However, if the settling pond is within four feet of the seasonal high water table, then an earth materials extraction within water table CLUP under KPB 21.29.057 is also required.

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

Thru: Mike Navarre, Mayor MN
Max Best, Chief of Staf MB

FROM: Robert Ruffner, Planning Director RR

DATE: October 13, 2022

SUBJECT: **Administrative Amendment #7** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.060, as follows:

21.29.060. Reclamation plan.

A. All material site permit applications require an overall reclamation plan. A site plan for reclamation must be required including a scaled drawing with finished contours. A five-year reclamation plan must be submitted with a permit renewal request.

B. The applicant may revegetate and must reclaim all disturbed land within the time period approved with the reclamation plan so as to leave the land in a stable condition wherein a 2:1 slope is maintained. Any revegetation must be done with a non-invasive plant species. Bonding must be required at $750.00 per acre for all acreage included in the current five-year reclamation plan. In the alternative, the planning director may accept a qualified professional's estimate for determining the amount of bonding. If the applicant is bonded with the state, the borough's bonding requirement is waived. Compliance with reclamation plans will be enforced under KPB 21.50.

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C. The following measures must be considered in the preparation, approval and implementation of the reclamation plan, although not all will be applicable to every reclamation plan:

1. The area will be backfilled, graded and re-contoured using strippings, overburden, and topsoil so that it will be stabilized to a condition that will allow for revegetation under KPB 21.29.060(B).

2. The topsoil used for reclamation must be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by an independent, professional civil engineer licensed and active in the State of Alaska.

3. Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation must be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.

4. Topsoil mine operations must ensure a minimum of four inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).

5. Ponding may be used as a reclamation method as approved by the planning commission.

6. The area will be reclaimed in a manner that screens the site from becoming a public attractive nuisance and in a manner that is not harmful to public health, safety, and general welfare.

D. The five-year reclamation plan must describe the total acreage to be reclaimed relative to the total excavation plan. **The five-year reclamation plan must also identify any drainage features which enter or exit the property.**

E. *Close-out*. Reclamation plans and requirements survive expiration, termination, or revocation of a permit granted under this chapter. In order to close-out a permit, the planning director must be provided adequate proof that reclamation has been conducted in accordance with the reclamation plan. If a permit expires, terminates, or is revoked prior to permit close-out, the remedies under KPB 21.50 apply and the planning director

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may hold applicable fines and remedies in abeyance upon a finding that reclamation is actively ongoing.

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

Thru: Mike Navarre, Mayor MN
Max Best, Chief of Staff MB

FROM: Robert Ruffner, Planning Director RR

DATE: October 13, 2022

SUBJECT: **Administrative Amendment #8** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.120, as follows:

21.29.120. Prior-existing uses.

A. *Determination.* Prior-existing uses (PEU) in effect on October 1, 2022 are allowed to continue operation subject to the requirements of this section. The burden of proof that the prior-existing use existed before October 1, 2022 is on the applicant. If the planning director denies prior-existing use status, the applicant must comply with the permit requirements of this chapter. Failure to apply for a prior-existing use determination by January 1, 2024 will result in termination of all rights to continued operation as a nonconforming use and require full compliance with all provisions of this chapter.

B. *Decision.* The planning director will give notice of the application for a prior-existing use determination to property owners within 100 feet of the subject parcel boundaries. 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 the planning director issuing a decision. The planning director will issue a decision regarding the prior-existing use status based on the written application, written

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comments, or evidence regarding the existence of the use. **Based on that information, the planning director will classify the PEU based upon the types defined in KPB 21.29.020 and will provide a written description of the existing operations. The planning director's decision will also set forth the reclamation plan as required by subsection (F) below.** 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 prior-existing use which has ceased by discontinuance for an uninterrupted period of **[~~365 days~~] five (5) years** must thereafter conform to the permit requirements of this chapter. Lack of intent to cease use or abandon the use does not suspend the 365-day time period. If a prior-existing use is discontinued or abandoned, it may not be recommenced.

D. *Expansion Prohibited.* A prior-existing use may not be increased, intensified, or expanded or moved to any other part of the lot, tract, or parcel it occupies after October 1, 2022, nor may the prior-existing use be moved to a parcel which is subject to this chapter. If a parcel is subdivided, the pre-existing use may not be expanded to any lot, tract, or parcel where material extraction or processing had not previously occurred or was not lawfully established in accordance with this section. **If a PEU material site has been exhausted as determined by the planning director, it cannot be used for earth materials processing without an earth materials processing CLUP.**

E. *Standards.* In order to qualify as a legal prior-existing use, the use must meet the following standards, on or before October 1, 2022:

1. A use must have been legally established under prior law.

2. A use must be operational in accordance with the type of use.

F. In accordance with 21.29.015, on or before January 1, 2026, all legal prior-existing-use extraction operations shall comply with KPB 21.29.060 (reclamation plan) and applicable hours of operation requirements under this chapter. **The planning director may waive or modify any or all of the reclamation plan requirements set forth in KPB 21.29.060 as appropriate.**

G. Materials extraction operations with legal prior-existing use status which extract material below or within four feet of the seasonal highwater table shall conduct operations in accordance with the requirements outlined in KPB 21.29.057, except that KPB 21.29.057(C)(7) will not apply.

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H. For the purposes of this section, "increased, intensified, or expanded" means: (1) enlarging the area of excavation **beyond the classification set forth in the planning director's decision or beyond the written description of existing operations as set forth by the planning director under subsection (B) above**; (2) increasing the depth of excavation to go within four feet of the seasonal high-water table; or (3) adding a use that was not in existence as of the date of the PEU status determination, to include adding earth materials processing to a use that did not previously include processing.

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

Thru: Mike Navarre, Mayor MN
Max Best, Chief of Staff MB

FROM: Robert Ruffner, Planning Director RR

DATE: October 13, 2022

SUBJECT: **Administrative Amendment #9** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.130, as follows:

21.29.130. Definitions.

A. Unless the context requires otherwise, the following definitions apply to material site permits and activities:

1. *Abandon* means to cease or discontinue a use without intent to resume, but excluding short-term interruptions to use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility or during normal periods of vacation or seasonal closure. An "intent to resume" can be shown through continuous operation of a portion of the facility, maintenance of utilities, or outside proof of continuance, e.g., bills of lading or delivery records. Abandonment also means the cessation of use, regardless of voluntariness, for a specified period of time.
2. *Aggrieved Party* means a party of record adversely impacted by the decision of the hearing officer who participated before the hearing officer either by written or oral presentation.

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3. *Aquifer* means a subsurface formation that contains sufficient water-saturated permeable material to yield economical quantities of water to wells and springs.
4. *Aquifer-confining layer* means that layer of relatively impermeable soil below an aquifer, typically clay, which confines water.
5. *Commercial* means any provision of services, sale of goods, or use operated for production of income whether or not income is derived, including sales, barter, rental, or trade of goods and services.
6. *Conditioning or processing material* means a value-added process including batch plants, asphalt plants, screening, **blasting,** washing, and crushing by use of machinery. **It does not include stripping and segregation with excavation equipment.**
7. *Exhausted* means that all material of a commercial quality in a sand, gravel, or material site has been removed.
8. *Groundwater* means, in the broadest sense, all subsurface water, more commonly that part of the subsurface water in the saturated zone.
9. *Person* shall include any individual, firm, partnership, association, corporation, cooperative, or state or local government.
10. *Quarter or Quarterly* means January through March, April through June, July through September, or October through December;
11. *Sand, gravel or material site* means an area used for extracting, quarrying, or conditioning gravel or substances from the ground that are not subject to permits through the state location (mining claim) system (e.g., gold, silver, and other metals), nor energy minerals including but not limited to coal, oil, and gas.
12. *Seasonal high groundwater table* means the highest level to which the groundwater rises on an annual basis.
13. *Stable condition* means the rehabilitation, where feasible, of the physical environment of the site to a condition that allows for the reestablishment of renewable resources on the site within a reasonable period of time by natural processes.
14. *Surface water* means water on the earth's surface exposed to the atmosphere such as rivers, lakes, and creeks.
15. *Topsoil* means material suitable for vegetative growth.
16. *Waterbody* means any lake, pond, stream, riparian wetland, or groundwater into which stormwater runoff is directed.

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17. *Water source* means a well, spring or other similar source that provides water for human consumptive use.

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Brent Johnson, Assembly Presider BJ

DATE: October 25, 2022

SUBJECT: **LAYDOWN Johnson Amendment #1** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.25.050, as follows:

21.25.050. Permit considerations—Public hearing required.

Within 30 days of receiving an application, the planning director or designee shall review the submitted application for completeness and compliance with this chapter. If it is incomplete or does not meet the requirements of this chapter, the planning director shall notify the applicant in writing. The planning director shall thereafter either return the application to the applicant or schedule the application to be considered by the planning commission at the next appropriate scheduled meeting. **Upon receiving an application, the planning director or designee will forward a copy of the application to the Kachemak Bay National Estuarine Research Reserve ("KBNERR") for review and comment. KBNERR will have thirty days to provide its review and comment prior to submission of the application to the planning commission if the application is otherwise complete.**

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Brent Johnson, Assembly Presiden BJ

DATE: October 25, 2022

SUBJECT: **LAYDOWN Johnson Amendment #2** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.005, as follows:

21.29.005. Intent and Purpose.

The purpose of this chapter is to provide a land use permitting process to regulate the operation, scope, and duration of earth materials extraction and processing within the borough while promoting the public health, safety, and general welfare of the Kenai Peninsula Borough, **including the health of aquatic systems that support salmon.** It is the further purpose of this chapter to promote compatible, orderly development.

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Brent Johnson, Assembly Presiden BJ

DATE: October 25, 2022

SUBJECT: **LAYDOWN Johnson Amendment #3** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.030, as follows:

21.29.030. Application procedure.

A. In order to obtain a counter permit or CLUP under this chapter, an applicant must first complete and submit to the borough planning department a permit application, along with the fee listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees. The planning director may determine that certain contiguous parcels are eligible for a single permit. The application must include the following items, without which the application will be deemed incomplete:

1. Legal description of the parcel, KPB tax parcel ID number, and identification of whether the permit is for the entire parcel, or a specific location within a parcel;

2. Expected life span of the material site;

3. A buffer plan consistent with KPB 21.29.050(A)(1);

4. Reclamation plan consistent with KPB 21.29.060;

5. The depth of excavation;

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6. Type of material to be extracted;

7. A site map professional surveyor licensed in the State of Alaska to include the following:

   a. Location of excavation, and, if the site is to be developed in phases, the life span and expected reclamation date for each phase;
   b. Proposed buffers consistent with KPB 21.29.050(A)(1), or alternate buffer plan;
   c. Identification of all encumbrances, including but not limited to, easements;
   d. Points of ingress and egress. Driveway permits must be acquired from either the state or borough as appropriate prior to submitting the application;
   e. Anticipated haul routes, contingent on approval from the governmental agency with regulatory jurisdiction over the road;
   f. Location of any processing areas on the parcel, if applicable;
   g. North arrow;
   h. The scale to which the site plan is drawn;
   i. Preparer's name and date; and
   j. Field verification must include staking the boundary of the parcel at sequentially visible intervals. The planning director may grant an exemption in writing to the staking requirements if the parcel boundaries are obvious or staking is unnecessary.

8. A site plan, prepared by a qualified independent civil engineer licensed and active in the State of Alaska to include the following:

   a. Surface water protection measures, if any, for adjacent properties, including the use of diversion channels, interception ditches, on-site collection ditches, sediment ponds and traps, and silt fence;
   b. Location and elevation of test holes, and depth of groundwater, based on the seasonal high-water table. At least one test hole per ten acres of excavated area is required to be dug. The test holes must be at least four feet below the proposed lowest elevation of excavation depth;
   c. Location of all private wells of adjacent property owners within 300 feet of the proposed parcel boundary; and
   d. Location of any water body on the parcel, including the location of any riparian wetland as determined by best available data **[.]** ;

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e. Ground water protection measures for anadromous streams, especially with regard to juvenile salmon, as identified by shallow groundwater flowpaths and critical areas of aquifer connectivity, such as recharge, where this information is available.

9. A statement by the operator of the site that the requirements of KPB 21.29.045 have been satisfied.

B. In order to aid the planning commission or planning director's decision-making process, the planning director may provide vicinity, aerial, land use, and ownership maps for each application and may include additional information.

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Brent Johnson, Assembly Presiden BJ

DATE: October 25, 2022

SUBJECT: **LAYDOWN Johnson Amendment #4** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.040, as follows:

21.29.040. Standards for sand, gravel or material sites.

A. These material site regulations are intended to protect against aquifer disturbance, road damage, physical damage to adjacent properties, dust, noise and other impacts of earth materials extraction to properties in the vicinity through setbacks, buffer zones, **[~~and~~]** street-level visual screening **[.]** **,and protection of salmon-rearing waters.** Prior to granting a counter permit or conditional land use permit under this chapter, the planning director or planning commission, as applicable, must make the following findings:

1. That the use is not inconsistent with the applicable comprehensive plan;

2. That the use will not be harmful to the public's health, safety, **[~~and~~]** general welfare **[,]** **,and the health of anadromous streams, particularly with regard to juvenile salmon;**

3. That sufficient setbacks, buffer zones, and other safeguards **such as avoidance of critical groundwater flowpaths and recharge areas** are being provided consistent with this chapter; and

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4. That the use provides for a reclamation plan consistent with this chapter.

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Brent Johnson, Assembly Presiden BJ

DATE: October 25, 2022

SUBJECT: **LAYDOWN Johnson Amendment #5** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.050, as follows:

21.29.050. Permit conditions applicable to all permits.

B. Discretionary Conditions. The planning commission or planning director, as applicable, may set conditions of approval for issuance of a counter permit or CLUP, as appropriate for the area in which the development is sited, for the following:

1. *Setbacks/Buffer Area.*

a. The mandatory buffer area condition in subsection (A) above may be increased, up to a maximum of 100 feet between the area of excavation and the parcel boundaries if the planning commission finds based on substantial evidence presented that increasing the buffer area is necessary for the public health, welfare and safety of the surrounding community;

i. Upon request of the applicant, in lieu of any additional buffer area under this subsection designed to separate the use of material site activities from neighboring parcel boundaries, an eight-foot-high berm above the preexisting elevation may be constructed, prior to excavation, around the excavation area. If the excavation site

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area expands, the berm may move toward the permitted boundary until such limits of the permitted area are exhausted. The berm must be maintained at eight-foot height while permitted activity is occurring.

b. All other requirements of KPB 21.29.050(A)(1) apply; and
c. When a buffer area has been denuded prior to review of the application by the planning commission or planning director revegetation may be required.

2. *Road maintenance and repair*. In consultation with the Road Service Area Director, road maintenance or repair of public right-of-way haul routes may be required of the permittee.

3. *Ingress and egress*. The planning commission or planning director may determine the points of ingress and egress for the material site. The permittee is not required to construct haul routes outside the parcel boundaries of the material site. Driveway authorization must be acquired, from either the state through an "Approval to Construct" or the borough road service area, as appropriate, prior to issuance of a material site permit when accessing a public right-of-way.

4. *Dust suppression*. Dust suppression may be required when natural precipitation is not adequate to suppress the dust generated by the material site traffic on public right-of-way haul routes.

5. *Surface water* ***and groundwater*** *protection.* Use of surface **and ground** water protection measures as specified in KPB 21.29.030(A)(8)(a).

6. *Street-level screening*. Street-level visual screening, noise mitigation, and lighting restrictions as appropriate for the surrounding area and in accordance with the standards set forth in KPB 21.29.040.

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Brent Johnson, Assembly Presiden BJ

DATE: October 25, 2022

SUBJECT: **LAYDOWN Johnson Amendment #6** Amending Ordinance 2022-36, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

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

- Amend KPB 21.29.057, as follows:

21.29.057(A). Material extraction below or within four feet of the seasonal high-water table.

In accordance with KPB 21.29.020(B)(3), a CLUP is required for material extraction of material below or within four feet of the seasonal high water table. Prior to a permit being issued the planning commission must impose the mandatory conditions set forth in KPB 21.29.050(A) and discretionary conditions as deemed appropriate. In accordance with KPB 21.29.050(A)(2)(b) dewatering is prohibited. The following additional application requirements and permit conditions specific to a Material Extraction within the Water Table CLUP apply:

A. Prior to application for a water table extraction permit, the following requirements must be met:
   1. Installation of a sufficient number of monitoring wells and test pits, as recommended by a qualified professional, to adequately determine groundwater flow direction, hydraulic gradient, water table and seasonal high-water table elevation Monitoring well and test pit locations must provide the qualified professional with adequate information to characterize the entire property that will be permitted for material extraction. Well casing elevations must be surveyed to a

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vertical accuracy of 0.01 feet by a registered land surveyor and tied to NAVD 1988.

2. Determination of seasonal high-water table elevation, groundwater flow direction, hydraulic gradient, and water table elevation for the site must be measured under the supervision of a qualified professional.
3. A written report must be completed by a qualified professional that makes a determination about the potential adverse effects to groundwater and surface water body elevation, groundwater and surface water quality, surrounding water users and adjacent properties. The determination must be based on available data, interpretations of the data and knowledge of groundwater processes.
4. The report must be submitted with the CLUP application and must:
   a. Identify existing public water system sources (i.e., wells, springs, surface water intakes), as identified by the state, that are located within one-half mile of the boundary of the property on which the activity will take place;
   b. Identify actual or presumed private drinking water wells located within one-half mile of the boundary of the property on which the activity will take place and include a copy of the available well logs;
   c. Identify existing regulated potential sources of contamination within at least one-half mile of the boundary of the property on which the activity will take place;
   d. Contain maps at appropriate scales presenting the results of the well search, the setbacks required by subsection (C)(7) of this section, and illustrating wetlands and water bodies; at least one map must show identified potential sources of contamination;
   e. Include the water table elevation monitoring data, monitoring well logs and records of any test pits, and a discussion of the seasonal high-water table determination;
   f. Evaluate subsurface hydrologic conditions and identify potential adverse effects that may occur as a result of material extraction. The evaluation of the hydrologic conditions must include identifying confining layers **and shallow ground water flowpaths.**

Your consideration of this amendment is appreciated.

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Members, Kenai Peninsula Borough Assembly

FROM: Brent Johnson, Assembly President BJ
Lane Chesley, Assembly Member (LC)

DATE: July 28, 2022

RE: Ordinance 2022-36, Amending KPB Chapter 21.25 and KPB Chapter 21.29 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

In 2021, the Borough administration brought the issue of land use conflicts related to earth material extraction and processing sites back before the Assembly and requested Assembly consideration and action to address the regulatory process related to conditional land use permits issued under KPB Chapter 21.29, Material sites.

After receiving public comment on Ordinance 2021-41, the Assembly ultimately tabled the ordinance and a related substitute ordinance. The Assembly formed a committee of the whole to review the permitting process with a fresh perspective.

This ordinance will repeal and re-enact KPB Chapter 21.29. This ordinance shifts the conditional land use permit (CLUP) process for earth materials extraction and processing away from a "one size fits all" approach and instead establish a multi-permit structure wherein activities related to materials processing and extraction within the water table require heightened protections for the public good but activities of lesser impact to surrounding properties do not require the same level of protections. This ordinance maintains important mandatory conditions found in current code that are necessary to protect the public health, safety, and general welfare of Borough residents. This ordinance also presents a permitting system that will provide for more flexibility to meet the needs of the particular application through discretionary conditions that may only apply when appropriate under the circumstances.

Your consideration of the ordinance is appreciated.

Kenai Peninsula Borough
Legal Department

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly
Blair Martin, Planning Commission Chair
Members, Kenai Peninsula Borough Planning Commission

FROM: Robert Ruffner, Planning Director
Sean Kelley, Borough Attorney
A. Walker Steinhage, Deputy Borough Attorney

COPY: Charlie Pierce, Mayor

DATE: August 30, 2022

SUBJECT: Ordinance 2022-36: Sectional Analysis

The following provides a sectional analysis for Ordinance 02022-36, An Ordinance Amending KPB Chapter 21.25 and KPB Chapter 21.29 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permit Conditions ("Ordinance 02022-36").

The purpose of this Sectional Analysis is to provide an easy reference to compare present KPB code with Ordinance 02022-36. Ideally it will supplement and cement the presentation to the Committee of the Whole on August 23, 2022. For the quickest summation of the changes proposed in Ordinance 02022-06, simply refer to the final column, "Highlighted Changes".

Finally, many of the features in Ordinance 02022-36—especially dimensional or durational descriptions like the 365-day period for prior-existing use abandonment—are intended to act as "springboards" for Assembly legislative policy decisions.

ORDINANCE 02022-36 SECTIONAL ANALYSIS

Code Section	O2022-36	Current Code	Highlighted Changes
KPB 21.25.050	30-day staff review period of an application.	21-day staff review period of an application.	Increase from 21 to 30 days.
KPB 21.25.060 - Notice	Notice published on KPB website; public bulletin; mailed to all owners/leaseholders within ½ mile radius of proposed site.	Requires notice published two times in newspaper, posted in the post office, copy of the notice sent by regular mail to all owners	Expressly does not apply to counter permits. No longer requires newspaper publication but allows

		and/or leaseholders within one-half mile.	for publication on KPB website.
KPB 21.29.005 - Intent and Purpose	Establishes an intent and purpose section for KPB Chapter 21.29 with focus on public health, safety and general welfare, and to promote compatible, orderly development.	N/A	New code section.
KPB 21.29.010 - Applicability	**A.** Applies to all private and public lands, except as preempted by other law; **B.** Does not apply within the incorporated cities; **C.** Prohibits extraction within 300 feet of riparian wetlands and naturally-occurring open water bodies; **D.** Operations must be conducted in accordance with current Alaska DEC Manual for extraction projects.	N/A	New code section to clarify applicability of chapter and fact that it does apply to both public and private lands outside of the incorporated cities unless otherwise exempt.
KPB 21.29.015 -Material extraction exempt from obtaining a permit	**A.** Exempts extraction disturbing less than one acre if: -Not in floodplain; -Does not enter water table; and -Does not cross property boundaries. No excavation within 32' of lot line. **B.** Exempts dewatered bars within SBCFSA/Snow River.	Currently 21.29.010 **A.** Exempts extraction disturbing less than one acre if: -Not in floodplain; -Does not enter water table; and -Does not cross property boundaries. No excavation within 20 feet of ROW or 10 feet of lot line. **B.** Exempts dewatered bars within SBCFSA/	New code section. No excavation within 32' of lot lines. PEUs exempt but must provide reclamation plan & comply with buffer zone requirements by 2026.

	C. Exempts PEUs but by 2026 must: -Provide reclamation plan -Comply with buffer zone requirements	Snow River. **C.** PEUs exempt but floodplain permit required within mapped special flood hazard area.	
KPB 21.29.020- Types of permits available	**Counter permit** -1 to 10 acres -No processing -No water table extraction -Only 21.29.050 conditions apply. **Earth Materials Extraction CLUP** -Activity disturbing more than 10 acres -No processing -No water table extraction -Only 21.29.050 conditions apply **Earth Materials Processing CLUP** -Required for all on-site processing, screening, or crushing -21.29.050 and 21.29.055 conditions apply **Earth Materials Extraction within Water Table CLUP** -Required for all earth materials extraction within water table -21.29.050 and 21.29.057 conditions apply	Counter permit and generic CLUP only. CLUP application requires all mandatory conditions and covers all uses.	Counter permit and three types of CLUPs. 1 to 10 acres eligible for counter permit if no processing or water table extraction. Three different CLUP categories: earth materials extraction (more than ten acres), earth materials processing, and earth materials extraction within water table. Applicant may apply for one, two, or all three CLUP types.
KPB 21.29.030- Application procedure	Very similar to current procedure. Requires site map from professional surveyor and site plan	-Legal description -Life span -Buffer plan -Reclamation plan	Breaks apart site map (professional surveyor)

	from professional engineer	-Excavation depth -Type of materials and equipment -Any voluntary permit conditions -Site plan	from site plan (professional engineer) Application will be deemed incomplete without all items listed. (Not in current code.)
KPB 21.29.040- Standards for sand, gravel or material sites	Planning Director (counter permits) or Planning Commission (CLUPs) must find: -Use is not inconsistent with applicable comp plan -Use will not be harmful to public's health, safety and general welfare -Provides sufficient setbacks, buffer zones, and other safeguards -Reclamation plan	-Protects against lowering of water sources serving other properties and damage to other properties -Minimizes off-site dust movement, noise disturbance, visual impacts & alternate post-mining land uses	All new standards/"may issue" Focus on legitimate public purpose to protect against damage to public roads and adjacent properties as well as dust, noise and other impacts through setbacks, buffer zones, and street-level visual screening.
KPB 21.29.045	Applicants required to demonstrate compliance with state and federal law through written documentation from pertinent authorities: -Mining license (AK Dep't of Revenue) -Mining permit (ADNR) -Permits and plans required by DEC -Permits from USACE, if applicable -Other applicable permits from other regulatory bodies authorized to regulate mining activities or earth materials extraction Must comply with other regulations such as air	N/A	New code section. Requires compliance with applicable state/federal agencies prior to approval of KPB permit. All activity must comply with state/federal regulations governing air/water quality and hazardous materials. Violations subject to enforcement under 21.50.

	and water quality, and hazardous materials Violations subject to enforcement under 21.50		
KPB 21.29.050	**NINE MANDATORY CONDITIONS** **1. Buffers:** 32-foot buffer/may include natural vegetation for street-level visual and noise screening; 8-foot fence or berm with a 2:1 slope; 2:1 slope between buffer zone and floor on all inactive site walls. Material from slope may be removed if site plan provides removal timeframe and verification material will be replaced within 30 days. **2. Water source separation:** No extraction below or within 4' of seasonal high-water table unless new section 21.29.057 conditions are met (Material Extraction within Water Table CLUP/see below); no off-site dewatering; no extraction within 100 feet of private well. **3. Roads:** Operations impacting KPB roads must comply with 14.40 and subject to remedies in 14.40. **4. Dust control:** Water or calcium chloride on haul	**Buffers:** 50' of undisturbed natural vegetation, or 6' berm with at least 2:1 slope, or 6' fence. Material from slope may be removed if site plan provides removal timeframe and verification material will be replaced within 30 days. Planning Commission may waive where topography or placement of natural barriers make screening not feasible or unnecessary **Water source separation:** No material extraction within 100 horizontal feet of any water source existing prior to permit issuance. Counter permits require four-foot vertical separation from seasonal high water table. CLUPs require two-foot vertical separation from seasonal high water table. No dewatering unless PC grants exemption. **Roads:** Operations impacting KPB roads must comply with KPB 14.40.175 and subject to remedies in 14.40.	Allows flexibility to meet demands of a specific application vs. "one size fits all" of current code. **Buffers:** -Street-level noise and visual screening (as opposed to generic "noise and visual screening/impacts" -Decrease from 50' vegetation to 32' -Increase from 6' to 8' minimum -Decision-maker may waive if lot line is directly adjacent to another material site **Water source separation:** -Operations within water table governed by new section, 21.29.057 (see below) and require Material Extraction within Water Table CLUP -On site water movement permitted if qualified independent civil engineer provides statement under seal that dewatering will not lower any known water systems and applicant posts bond for potential accrued

	roads within boundaries of material site **5. Hours of operation**: 6 am-9m but decision-maker may waive for specific seasonal project. Waiver valid for six consecutive months. **6. Groundwater elevation:** Requires groundwater monitoring/one well 4' below proposed excavation per ten acres of excavated area. **7. Setback:** 250' from LOZD/school/senior center/child care facility/etc. **8. Boundaries:** Must stake buffers, ROWs, easements at visible intervals by professional land surveyor. Stakes must be placed prior to permit issuance. **9. Processing:** Must comply with conditions in new section 21.29.055 (Earth Materials Processing CLUP/see below.) **SIX DISCRETIONARY CONDITIONS** **1. Setbacks/Buffer Areas:** Up to maximum of 100' if PC finds based on substantial evidence that increase is necessary for	**Dust control:** Water or calcium chloride on haul roads within boundaries of material site **Hours of operation:** Rock crushing equipment shall not be operated between 10 pm and 6 am. **Groundwater elevation:** See below. **Setback:** Not addressed. **Boundaries:** Staked at sequentially visible intervals where boundaries are within 300' of excavation perimeter. Verification and staking by professional land surveyor. **Processing:** See below. **No provision for discretionary conditions.**	damages in amount equivalent to replace each water well within 300-foot radius of site. Rebuttable presumption is each well is minimum of $10,000. **Roads/Dust control:** Essentially the same. **Hours of operation:** For all extraction activities, 6 am to 9 pm but decision-maker can waive or adjust for specific seasonal project for period of six consecutive months. **Groundwater elevation:** Requires groundwater monitoring. **Setback:** 250' from LOZD/school/senior center/child care facility/etc. **Boundaries:** Stakes must be placed prior to permit issuance rather than time of application. **Processing:** Requires compliance with new section 21.29.055 and Earth Materials Processing CLUP.

	public health, welfare, and safety; potential for rolling berms instead. **2. Road maintenance and repair:** Permittee may be required to maintain/repair damaged public roads; requires consultation with RSA Director. **3. Ingress/egress:** Decision-maker may require driveway authorization. **4. Dust suppression:** On public ROWs when natural precipitation inadequate to suppress dust generated by material site traffic. **5. Surface water protection:** As specified in 21.29.030(A)(8)(a). **6. Street-level screening:** Street-level visual screening, noise mitigation, & lighting restrictions as appropriate for the surrounding area and in accordance with 21.29.040 standards set to protect against attractive nuisance issues.		Adds discretionary conditions: -Additional setbacks or rolling berms -Maintenance and repair of damaged public roads -Driveway authorization -Dust suppression on public ROWs -Surface water protections as set forth in 21.29.030(A)(8)(a) -Street-level screening as appropriate for surrounding area and to protect against attractive nuisances
KPB 21.29.055-Earth materials processing	In addition to mandatory conditions in 21.29.050(A). **A.** Conditioning or processing equipment must be operated at	300' setback for conditioning or processing equipment. PC may waive or reduce in consideration of and in accordance with	New code section. PC may waive or reduce in consideration of and in accordance with existing uses of the

	least 300' from parcel boundaries. PC may waive or reduce distance requirement in consideration of and in accordance with existing uses of properties in the vicinity. **B.** Hours of operation for processing equipment between 8am and 7pm or as PC determines. PC may also grant exceptions (not to exceed 120 days) for: -Emergencies -Good cause finding that increase serves public purpose and is not harmful to public health, safety, and general welfare Applicant may request waiver (not to exceed six consecutive months) for specific seasonal project. PC must also find waiver is not harmful to the public health, safety and general welfare.	existing uses of adjacent property at the time.	"properties in the vicinity". Present code is "adjacent property". Processing equipment may only be operated between 8am and 7pm, may be increased for emergencies, to serve a public purpose or for specific, seasonal project.
KPB 21.29.057- Material extraction in water table	In addition to mandatory conditions in 21.29.050(A). Dewatering prohibited (21.29.050(A)(2)(b)). **A.** Applicant must meet the following requirements prior to applying:	Excavation within 300' horizontal feet of water source may be permitted based on: -No negative impact to quantity of an aquifer serving existing water sources; -Minimum of three water monitoring tubes or well casings to determine flow direction, flow rate,	New code section. In addition to 21.29.050 conditions, sets forth additional requirements and conditions primarily to protect water quantity. Qualified professional must be able to characterize entire

	1. Installation of sufficient monitoring wells and test pits to provide qualified professional with adequate information to characterize the entire property that will be permitted for excavation. 2. Under the supervision of a qualified professional, measurement of seasonal high-water table elevation, groundwater flow direction, hydraulic gradient and water table elevation. 3. A qualified professional's report determining the potential adverse effects to groundwater and surface water body elevation and quality, surrounding water users and adjacent properties. Determination based upon available data, interpretations of data and knowledge of groundwater processes. 4. Report must be submitted with CLUP application. Subsection lists what must be included in the report. **B.** Must also include: 1. Description of proposed extent and depth of material extraction beneath	and water elevation; and -Quarterly measurements of groundwater elevation, flow direction, and flow rate for at least four quarters prior to application. Tubes or wells must be kept in place for duration of excavation in water table. -Operations shall not breach aquifer-confining layer. No extraction activities within 100 linear feet from waterbodies. Additional setback from lakes, rivers, anadromous streams and riparian wetlands may be required. -Permits may contain additional conditions addressing surface water diversion.	property permitted for excavation through sufficient monitoring wells and test pits. Qualified professional must supervise measurement of seasonal high-water table elevation, groundwater flow direction, hydraulic gradient and water table elevation. Based upon available data, interpretations of data and knowledge of groundwater processes, qualified professional will report potential detrimental adverse effects to groundwater and surface water body elevation and quality, surrounding water users and adjacent properties. Must be submitted with application and also include extent and depth of extraction beneath seasonal high-water table, spill prevention/control/ countermeasures plan. Conditions: -Implementation of monitoring and spill prevention/control/ countermeasures plan;

	seasonal high-water table. 2. Report 21.29.057(A)(4) report, monitoring plan and spill prevention/control/ countermeasures plan. **C.** Conditions 1. Implement monitoring plan 2. Implement spill prevention/control/ countermeasures plan 3. Monthly measurement (during active extraction) of groundwater flow direction, hydraulic gradient and groundwater table elevation 4. Retain water elevation monitoring data for two years after completion of reclamation activities 5. Annual report including water table elevation monitoring data from qualified professional 6. Operations must not breach or extract material from a confined aquifer or a confining layer beneath a perched aquifer. Subsection sets forth what must be done if there is a breach. 7. Setbacks:		-Monthly measurement of groundwater and retention of groundwater data for two years after completion of reclamation activities; -Annual report from qualified professional; -No breach or extraction from a confined aquifer or a confining layer beneath a perched aquifer; and -Setbacks from existing drinking water sources.

	-500' from nearest down-gradient drinking water source -350' from nearest cross-gradient drinking water source -200' from nearest up-gradient drinking water source -Do not apply to drinking water sources constructed after permit issued		
KPB 21.29.060 -Reclamation plan	**A.** Reclamation with site plan required. 5-year reclamation plan must be submitted with permit renewal request. **B.** Applicant may re-vegetate and reclaim all disturbed land upon exhausting the material site or time determined by plan to leave land in a stable condition. 2:1 slope must be maintained. $750 per acre bond required unless state bond. Enforcement under KPB 21.50. **C.** Measures listed must be considered as part of every reclamation plan, 6 reclamation measures including ponding and protection against public nuisance. **D.** Plan must list total acreage to be reclaimed.	**A.** Reclamation Plan required. **B.** Applicant shall vegetate and reclaim all disturbed land upon exhausting the material site or time determined by plan to leave land in a stable condition. Reclamation must occur for area exceeding 5 acres prior to 5 year renewal or as PC specifies. **C.** Measures listed must be considered as part of every reclamation plan, 6 reclamation measures including ponding. **D.** Plan must list total acreage to be reclaimed each year, a list of equipment and a time schedule for reclamation measures.	"May" rather than "shall" revegetate. Bonding required. Plan survives permit termination and must list total acreage to be reclaimed. Protection against public nuisance.

	E. Close-out – reclamation survives permit expiration, termination or revocation.		
KPB 21.29.065 -Effect of permit denial	**A.** Applicant denied counter permit cannot reapply within same calendar year w/out new evidence or circumstances. **B.** Applicant denied CLUP permit cannot reapply within same calendar year w/out new evidence or circumstances. **C.** Applicant bears burden of proof.	N/A	An applicant cannot immediately reapply for a permit after denial.
KPB 21.29.070 -Permit renewal, modification and revocation	**A.** Renewal by application every 5 years. **B.** Administrative approval if compliance with all conditions, no modification and no violation in prior 2 years. **C.** Public hearing on renewal required when there is a modification, permit violation, or as determined by planning director. Permit in compliance with no violations must be approved for renewal but the commission can add additional conditions where appropriate.	**A.** Must request permit extension every 5 years, 30 days prior to expiration. **B.** If no modification to operations or conditions proposed, a permit extension certificate may be issued by planning director. **C.** Extension may be denied if: (1) not in compliance with reclamation requirements; (2)non-compliance with permit conditions; (3) permit violation in last 2 years and still in non-compliance. **D.** Modification processed per	Renewal application, not request in writing. Possibility for public hearing on renewal and additional discretional conditions on renewal.

	D. Modifications processed per KPB 21.29.030 -.050 **E.** Renewal fee is same as original permit fee. **F.** Failure to apply for renewal = permit expiration. **G.** Permits revoked per KPB 21.50.	KPB 21.29.030-.050. **E.** No fee for permit extensions approved by planning director. The fee for a permit modification processed under KPB 21.29.070(D) requires original permit fee. **F.** Failure to apply for renewal = permit expiration. **G.** Permits revoked per KPB 21.50.	
KPB 21.29.080 -Permit Close-out	Requires permittee to request close-out of permit and verification of reclamation compliance. Bonding released at close-out.	Current code section is titled "Permit Termination" and provides for a termination document and verification of site reclamation.	Terminology change from permit "termination" to "close-out". Explicit that reclamation requirement survives permit expiration or revocation & that bonds are released upon close-out.
KPB 21.29.100 -Recordation	Provides for recordation of permits, etc. issued under KPB 21.29. Owner/operator responsible for cost.	Similar recordation requirement.	Owner/operator responsible for recording costs.
KPB 21.29.110 -Violations	Violations governed by KPB 21.50.	Same but also has subsection (B) which provides for bonding if owner/operator has 3 violations within a 3-year period.	Violations governed by KPB 21.50 remain unchanged. No subsection B related to bonding requirement if there are 3 violations in 3 year period.
KPB 21.29.115 -Permit transfers	Planning director approves or disapproves permit transfers. Permits do not run with the land.	N/A	New section of code.

KPB 21.29.120 -Prior-existing uses	**A.** Determination – mirrors process under KPB 21.44 (LOZD) for nonconforming-use determination **B.** Director provides notice of application and issues decision. Decision can be appealed to the Planning Commission. **C.** Establishes 365-day period for abandonment. **D.** Prohibits increasing, intensifying, expanding or moving the use. **E.** Establishes standards to guide decision-making process. **F.** Requires PEU compliance with KPB 21.29 reclamation plan and hours of operation by January 1, 2026. **G.** Requires PEU compliance with code requirements for extraction within water table under KPB 21.29.057, except the water source separation requirements do not apply.	**A.** Requires determination that use as a material site commenced or operated after May 21, 1986 and prior to May 21, 1996. Limited subdivision rights. PEU runs with land. **B.** Must have applied to be registered as a PEU prior to January 1, 2001. **C.** Abandonment if no operation as a material site between 5/21/1996 and 5/21/2011. Owner may protest finding of abandonment and may appeal decision to the Planning Commission.	By 1/1/2026, PEUs required to come into compliance with: -Reclamation requirements; -Hours of operation; & -Buffer area. 365 period of nonuse/ no operations = Abandonment

O2022-36
Material site permitting process overview

Section 1
KPB 21.25.050

- Increased review time of application for permit from 21 days to 30 days.

Section 2
KPB 21.25.060

- New notice section applicable to CLUPs
- Tracks Title 20 notice and maintains ½ mile notice radius.
- Provides for notice via borough website

Section 3
New Chapter KPB 21.29, Material Site Permits

- Establishes a multi-permit stratification system intended to increase decision-making flexibility while protecting against uses with highest impacts on public health, safety, and general welfare.
- Four permit types
  - Counter Permit (CP): anything from over 1 acre to 10 acres, no processing, no extraction in water table.
  - 3 Conditional Land Use Permit (CLUP) types:
    - Earth Materials Extraction CLUP: extraction activity disturbs more than 10 acres, no processing, no extraction in water table.
    - Earth Materials Processing CLUP: required for all on-site processing, screening, or crushing.
    - Earth Materials Extraction within Water Table CLUP: provides for heightened protections for uses within water table.

KPB Chapter 21.29
(as proposed in O2022-36)

- KPB 21.29.005 – Intent and Purpose
- KPB 21.29.010 – Applicability
- KPB 21.29.015 – Material extraction exempt
- KPB 21.29.020 – Types of permits available
- KPB 21.29.030 – Application procedure
- KPB 21.29.040 – Standards for sand, gravel or material sites
- KPB 21.29.045 – Required compliance with State/Federal laws
- KPB 21.29.050 – Permit conditions applicable to all permits
- KPB 21.29.055 – Earth materials processing
- KPB 21.29.057 – Material extraction in water table
- KPB 21.29.060 – Reclamation plan
- KPB 21.29.065 – Effect of permit denial
- KPB 21.29.070 – Permit renewal, modification, revocation
- KPB 21.29.080 – Permit close-out
- KPB 21.29.100 – Recordation
- KPB 21.29.110 – Violations
- KPB 21.29.115 – Permit transfers
- KPB 21.29.120 – Prior existing uses
- KPB 21.29.130 – Definitions

Section 3
KPB 21.29.005 – Intent and Purpose

- Sets forth intent and purpose for chapter in borough code regulating material sites.
- General purpose:
  - Promotes the public health, safety, and general welfare of KPB residents and visitors.
  - Promotes compatible, orderly development.

Section 3
KPB 21.29.010 – Applicability

- Chapter applies to all private and public lands in the borough, unless otherwise exempt by law.
- Does not apply within the incorporated cities.
  - Zoning powers have been delegated by the borough to all incorporated cities within the borough
- Prohibits earth materials extraction within 300 feet of riparian wetlands or naturally-occurring open water bodies.
- References State of Alaska, DEC Best Management Practices.

Section 3
KPB 21.29.015 – Material extraction exempt

- Exempts extraction disturbing less than one acre under circumstances set out
- Exempts dewatered bars within SBCFSA
- PEUs exempt BUT
  - Requires that by 2026, a legally established PEU:
    - 1. Provide a reclamation plan per KPB 21.29.060
    - 2. come into compliance with buffer zone requirements under KPB 21.29.050(A)(1)
    - Note: KPB 21.29.120 also requires PEUs to come into compliance with hours of operation requirements – this Section could be amended to include that as well.

Section 3
KPB 21.29.020 – Types of permits available.

- Current code: counter permit and CLUP. CLUP application requires all mandatory conditions and covers all uses.
- Proposed KPB 21.29.020 = 4 permit types
  - Counter Permit (CP): anything from over 1 acre to 10 acres, no processing, no extraction in water table. Only the conditions set forth in KPB 21.29.050 apply.
  - 3 Conditional Land Use Permit (CLUP) types:
    - Earth Materials Extraction CLUP: extraction activity disturbs more than 10 acres, no processing, no extraction in water table, only the conditions set forth in KPB 21.29.050 apply.
    - Earth Materials Processing CLUP: required for all on-site processing, screening, or crushing. Conditions set forth in KPB 21.29.050 + conditions set forth in KPB 21.29.055 apply.
    - Earth Materials Extraction within Water Table CLUP: Required for any earth materials extraction within water table. Conditions set forth in KPB 21.29.050 + conditions set forth in KPB 21.29.057 apply.
  - A CLUP applicant may request 1, 2 or all three CLUP types at the time of application.

Section 3
KPB 21.29.030 – Application procedure

- Very similar to current code application procedure
- Breaks apart a site map (professional surveyor) from site plan (professional engineer)

Section 3
KPB 21.29.040 – Standards for sand, gravel or material sites

- All new standards.
- Regulations serve legitimate public purpose to protect against damage of public roads, physical damage to adjacent properties, dust, noise and other impacts through setbacks, buffer zones, and street-level visual screening.
- In granting a permit the Planning Director or Planning Commission must find:
  - Use is not inconsistent with applicable comp plan.
  - Use will not be harmful to public's health, safety, and general welfare.
  - Sufficient setbacks, buffer zones, and other safeguards are provided.
  - Use provides for a reclamation plan.

Section 3
KPB 21.29.045 – Required compliance with State and Federal laws

- Requires evidence of compliance with applicable state/federal agency prior to approval of KPB permit.
- Requires all activity conducted in manner that complies with state/federal protections including but not limited to air quality, water quality, hazardous materials.

Section 3
KPB 21.29.050 – Permit conditions applicable to all permits

- In lieu of current exhaustive conditions in borough code that apply as a "one size fits all" this section establishes 9 mandatory conditions and provides 6 potentially applicable discretionary conditions.
- Allows for flexibility to meet the demands of a specific application.
- Is a move away from the "one size fits all" system.

Section 3
KPB 21.29.050 – Permit conditions …Continued

- 9 mandatory conditions:
  1. Buffer Zone: 32 feet, 8 foot berm or fence, 2:1 slope, buffer zone can only be waived when site is next to adjacent pit.
  2. Water source separation: extraction within water table is prohibited unless requirements of KPB 21.29.057 are met; dewatering off site is prohibited; material extraction within 100 feet of any private well is prohibited.
  3. Roads: Operations that impact KPB roads must be in accordance with KPB Chapter 14.40.
  4. Dust control: Dust suppression required within material site haul roads.
  5. Hours of operation: Applicable to all operations, 6am to 9pm, but can be adjusted by decision-maker and/or waived for seasonal project.
  6. Groundwater elevation: Requires monitoring of groundwater.
  7. Setback: 250 ft from LOZD, school, senior center, child care facility, etc.
  8. Permit boundaries: Must stake buffers, ROWs.
  9. Processing: Requires compliance with KPB 21.29.050 conditions and KPB 21.29.055.

Section 3
KPB 21.29.050 – Permit conditions …Continued

- 6 discretionary conditions:
  1. Setbacks/Buffer Areas: Up to a maximum of 100 feet based on circumstances, potential for "rolling berms".
  2. Road maintenance and repair: Permittee may be required to maintain/repair damaged roads.
  3. Ingress/Egress: As determined by decision-makers, driveway authorization required.
  4. Dust Suppression: May be required on public ROWs.
  5. Surface water protection: Use of surface water protection measures specified in KPB 21.29.030(A)(8)(a).
  6. Street-level screening: Street-level visual screening, noise mitigation, and lighting restrictions as appropriate for the surrounding area and in accordance with the standards set forth in KPB 21.29.040 to protect against attractive nuisance issues.

Section 3
KPB 21.29.055 – Earth materials processing

- In addition to KPB 21.29.050 conditions, this new Section sets forth 2 additional conditions:
  1. Setback – must process 300 feet from parcel boundaries, or lesser distance as appropriate.
  2. Hours of operation: 8am to 7pm, or as determined by the PC.
     - Provides for exceptions for emergency or good-cause findings.
     - Seasonal, project-based waiver available.

Section 3
KPB 21.29.057 – Material extraction in water table

- In addition to KPB 21.29.050 conditions sets forth additional requirements & conditions aimed primarily at protecting water quantity:
  - 21.29.057(A): establishes 6 additional application requirements when applicant requests to extract within the water table.
    - Requires groundwater study and report from a professional to characterize and monitor the condition of groundwater at the permitted site. Elevations of groundwater will be tied to real-world elevation datum. Focuses on water quantity concern over water quality concerns
  - 21.29.057(C): establishes 7 additional conditions applicable when applicant requests to extract within the water table.
    - Setback: up to 500 feet setback required related to proximity to drinking water source.

Section 3
KPB 21.29.060 – Reclamation plan

- Similar to current code. Requires reclamation plan. Must be submitted with renewal application as well.
- Requires reclamation of site to leave land in stable condition with 2:1 slopes and presumably revegetation.
- Requires $750 per acre bond.
- Reclamation plan and bond survives close-out, expiration, termination or revocation of permit.

Section 3
KPB 21.29.065 - .115

- KPB 21.29.065 – Effect of permit denial: no reapplication within 1 year without new evidence.
- KPB 21.29.070 – Permit renewal, modification, revocation: renewal required every 5 years, administrative if no changes, violations or complaints; public hearing otherwise.
- KPB 21.29.080 – Permit close-out: adds formal close-out process.
- KPB 21.29.100 – Recordation
- KPB 21.29.110 – Violations
- KPB 21.29.115 – Permit transfers: permits do not run with land, transfers must be approved.

Section 3
KPB 21.29.120 – Prior existing uses

- Recognizes "grandfather" rights, also known as non-conforming uses or prior existing uses (PEU).
- Must apply for PEU status. Determination by Planning Director appealable to Planning Commission (similar to LOZD nonconforming use process).
- Abandonment after 365 days of non-use; expansion prohibited.
- MAJOR CHANGE - BY JANUARY 1, 2026 – PEU must:
  - Comply with KPB 21.29.060 (reclamation plan)
  - Comply with KPB 21.29.057 (extraction within water table)
  - Comply with applicable hours of operation requirements

Issues that O2022-36 addresses to move the conversation forward

- One Size Fits All = rigid, not flexible to meet needs of application
  - Exhaustive list of mandatory conditions, no discretionary conditions, no room for adjustment
- Clarifies standards, and private vs. public viewshed concerns
- Provides for heightened requirements, conditions and protective measures for uses that could have highest detrimental impact on public health, safety, and general welfare.
- Address PEU issues, provides for formal process to establish use and status; requires eventual compliance with reclamation plan, hours of operation, and extraction within water table.

21.29.010. Applicability.

D. All operations must be conducted in accordance with the current publication of the State of Alaska, Alaska DEC User's Manual Best Management Practices for Gravel/Rock Aggregate Extraction Projects. In the event a provision of this chapter conflicts with the State of Alaska's manual, this chapter controls.

21.29.020. Types of permits available.

B. Conditional land use permit. A conditional land use permit (CLUP) is required for the following types of earth material extraction or uses:

3. Earth Materials Extraction Within Water Table CLUP. An Earth Materials Extraction within Water Table CLUP is required for material extraction and operations of any size within four feet of the seasonal high-water table. The conditions set forth in KPB 21.29.050 plus the requirements and conditions set forth in KPB 21.29.057 for material extraction within four feet of the seasonal high-water table are applicable to this type of CLUP**.**

May want to define "water table" and how this level fluctuates. May also want to differentiate it from a "potentiometric water level", or the water level expressed by a "confined aquifer".

21.29.030. Application procedure.

A. In order to obtain a counter permit or CLUP under this chapter, an applicant must first complete and submit to the borough planning department a permit application, along with the fee listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees. The planning director may determine that certain contiguous parcels are eligible for a single permit. The application must include the following items, without which the application will be deemed incomplete:

8. A site plan, prepared by a qualified independent civil engineer licensed and active in the State of Alaska to include the following:

21.29.045. Required compliance with State and Federal laws

A. All applicants for permits for earth materials extraction are required to demonstrate compliance with state and federal law. Prior to final approval of the permit, the applicant or agent must provide written documentation from the permitting agency of compliance with the following:

4. Notice of intent for construction general permit or multi-sector general permit and storm water pollution prevention plan, and other associated permits or plans required by the Department of Environmental Conservation (DEC) pursuant to the Alaska Pollutant Discharge Elimination System (APDES) requirements;

B. In addition to the requirements in subsection (A) of this section, all activity must be conducted in compliance with state or federal regulations governing the items listed below. Written documentation of compliance with these regulations is not required. Complaints received by the borough of violations of requirements within this section will be forwarded to the appropriate agency for enforcement, this includes but is not limited to:

2. *Water quality*. EPA or ADEC regulations controlling spills, spill reporting, storage and disposal of oil, anti-freeze and hydrocarbons.

C. Failure to comply with any of the requirements in subsections (A) and (B) of this section is a violation of the permit, and is subject to enforcement pursuant to KPB Chapter 21.50.

21.29.050. Permit conditions applicable to all permits.

A. The planning commission or planning director, as applicable, must impose the following mandatory conditions prior to approval of a permit under this chapter:

2. *Water source separation*.

a. Material extraction below or within four feet of the seasonal high-water table is prohibited unless the applicant is issued a CLUP Material Extraction Within Water Table Permit and the requirements and conditions set forth in KPB 21.29.057 are satisfied;

b. Dewatering either by pumping, ditching or some other form of draining that removes water from the site or causes water to leave the site is prohibited;

c. All permits shall be issued with a condition which prohibits any material extraction within 100 linear feet of any private well or water source existing prior to original permit issuance; and

Does this include PWS sources??

d. On site movement of water may be permitted pursuant to KPB 21.29.057 and if: (i) the operator provides a statement under seal and supporting data from a qualified independent civil engineer licensed and active in the State of Alaska that the dewatering will not lower any known water systems; and (ii) the applicant posts a bond for liability for potential accrued damages in an amount equivalent to the cost to replace each water wells within a 300-foot radius of the site. The rebuttable presumption is that the cost per well is a minimum of $10,000.

Re "…any known water systems…" - Does this include PWS sources?? If so, clarify.

6. *Groundwater elevation.* All material sites must maintain one monitoring well four feet below the proposed excavation per ten acres of excavated area.

Should this be clarified to mean one monitoring well *in the same aquifer*?

7. *Setback.* Material site excavation areas must be 250 feet from the property boundaries of any local option zoning district, existing public school ground, private school ground, college campus, childcare facility, multi-purpose senior center, assisted living home, and licensed health care facility. If overlapping, the buffer areas of the excavation must be in addition to the 250-foot setback.

B. Discretionary Conditions. The planning commission or planning director, as applicable, may set conditions of approval for issuance of a counter permit or CLUP, as appropriate for the area in which the development is sited, for the following:

1. *Setbacks/Buffer Area*.

a. The mandatory buffer area condition in subsection (A) above may be increased, up to a maximum of 100 feet between the area of excavation and the parcel boundaries, if the planning commission finds based on substantial evidence presented that increasing the buffer area is necessary for the public health, welfare and safety of the surrounding community;

5. *Surface water protection.* Use of surface water protection measures as specified in KPB 21.29.030(A)(8)(a).

21.29.057. Material extraction below or within four feet of the seasonal high-water table.
In accordance with KPB 21.29.020(B)(3), a CLUP is required for material extraction of material below or within four feet of the seasonal high water table. Prior to a permit being issued the planning commission must impose the mandatory conditions set forth in KPB 21.29.050(A) and discretionary conditions as deemed appropriate. In accordance with KPB 21.29.050(A)(2)(b) dewatering is prohibited. The following additional application requirements and permit conditions specific to a Material Extraction within the Water Table CLUP apply:

A. Prior to application for a water table extraction permit, the following requirements must be met:

1. Installation of a sufficient number of monitoring wells and test pits, as recommended by a qualified professional, to adequately determine groundwater flow direction, hydraulic gradient, water table and seasonal high-water table elevation Monitoring well and test pit locations must provide the qualified professional with adequate information to characterize the entire property that will be permitted for material extraction. Well casing elevations must be surveyed to a vertical accuracy of 0.01 feet by a registered land surveyor and tied to NAVD 1988.

   Seems to conflict with 21.29.050(A)(6) that says "…one monitoring well…per ten acres…". Perhaps add "at least" to 21.29.050(A)(6) and reference this section for more details.

2. Determination of seasonal high-water table elevation, groundwater flow direction, hydraulic gradient, and water table elevation for the site must be measured under the supervision of a qualified professional.

3. A written report must be completed by a qualified professional that makes a determination about the potential adverse effects to groundwater and surface water body elevation, groundwater and surface water quality, surrounding water users and adjacent properties. The determination must be based on available data, interpretations of the data and knowledge of groundwater processes.

4. The report must be submitted with the CLUP application and must:

   a. Identify existing public water system sources (i.e., wells, springs, surface water intakes), as identified by the state, that are located within one-half mile of the boundary of the property on which the activity will take place;

      - Recommend changing to "Identify where the property boundary on which the activity will take place intersects a public water system (PWS) Drinking Water Protection Area, as identified by the state."
      - See interactive public web map, titled "Alaska DEC Drinking Water Protection Areas", at https://www.arcgis.com/home/item.html?id=13ed2116e4094f9994775af9a62a1e85.
      - The link could be part of a supplemental fact sheet?

   b. Identify actual or presumed private drinking water wells located within one-half mile of the boundary of the property on which the activity will take place and include a copy of the available well logs;

   c. Identify existing regulated potential sources of contamination within at least one-half mile of the boundary of the property on which the activity will take place;

d. Contain maps at appropriate scales presenting the results of the well search, the setbacks required by subsection (C)(7) of this section, and illustrating wetlands and water bodies; at least one map must show identified potential sources of contamination;

e. Include the water table elevation monitoring data, monitoring well logs and records of any test pits, and a discussion of the seasonal high-water table determination; and

f. Evaluate subsurface hydrologic conditions and identify potential adverse effects that may occur as a result of material extraction. The evaluation of the hydrologic conditions must include identifying confining layers.

B. In addition to the application requirements for a CLUP for earth materials extraction, the application for a water table extraction permit must include:

1. A description of the proposed extent and depth of material extraction beneath the seasonal high-water table.

2. A written report that meets the requirements of subsection (A)(4) of this section, a monitoring plan, and a spill prevention, control, and countermeasures plan as required by this section.

C. *Conditions.* In addition to the requirements of KPB 21.29.050, operating conditions for extraction within or below four feet of the seasonal high-water table are as follows:

1. Implement a monitoring plan that meets the requirements of this chapter. If existing wells will provide sufficient data, no additional wells are required.

2. Implement the spill prevention, control and countermeasures plan in accordance with Environmental Protection Agency's requirements for above ground storage tank operations regardless of the quantity of petroleum products on site.

3. Groundwater flow direction, hydraulic gradient, and groundwater table elevation for the subject parcel must be measured at least monthly during active extraction. Monitoring wells must be maintained or replaced with equivalent monitoring wells.

4. Water elevation monitoring data must be retained for two years following completion of reclamation activities and must be provided to the planning director upon request.

5. A qualified professional must annually submit a report to the department that includes water table elevation monitoring data.

6. Operations must not breach or extract material from a confined aquifer or a confining layer beneath a perched aquifer.

Define "confined aquifer", "confining layer", and "perched aquifer".

a. If evidence suggests a confined aquifer or confining layer has been breached, or if groundwater or surface water elevation changes rapidly or beyond natural variation, the director must be notified within 24 hours.

i. A hydrologic assessment, conducted by a qualified professional, to determine the affected area and the nature and degree of effects and a description of potential repair or mitigation options must be submitted to the director within 14 calendar days of notification; and

ii. Repair or mitigation sufficient to address identified effects must be initiated as soon as practical, not to exceed 45 calendar days from the date the assessment is received by the director.

7. Operations must maintain the following setbacks:

a. 500 feet from the nearest down-gradient drinking water source;

b. 350 feet from the nearest cross-gradient drinking water source;

c. 200 feet from the nearest up-gradient drinking water source; and

d. Minimum separation distances do not apply to drinking water sources constructed after a permit to extract material below the water table has been issued.

21.29.060. – Reclamation plan.

E. *Close-out*. Reclamation plans and requirements survive expiration, termination, or revocation of a permit granted under this chapter. In order to close-out a permit, the planning director must be provided adequate proof that reclamation has been conducted in accordance with the reclamation plan. If a permit expires, terminates, or is revoked prior to permit close-out, the remedies under KPB 21.50 apply and the planning director may hold applicable fines and remedies in abeyance upon a finding that reclamation is actively ongoing.

Is this a good place to include requirements for decommissioning any monitoring wells? See Section 9.2.12 Well Decommissioning of the DEC Gravel Extraction BMP Manual, https://dec.alaska.gov/water/wastewater/stormwater/gravel/.

TAKINGS OVERVIEW

INTRODUCTION

TAKINGS OVERVIEW

BACKGROUND PRINCIPLES

Federal Constitution's Fifth Amendment

"Takings Clause" or "Just Compensation Clause"

- Gov't cannot take "private property…for public use, without just compensation."
  - Gov't's power to take property (or lesser interests in property) = "eminent domain"
    - Exercise of eminent domain also called "condemnation"
  - "Just compensation" has been interpreted to mean FMV for property taken
- **Fundamental principle: Avoid unfairly burdening some individuals with expense of accomplishing public purposes**

Alaska Constitution's Article 1, Section 18

- "Private property shall not be taken or damaged for public use without just compensation."

Background Principles

(cont'd)

- A taking can only occur where a private property interest exists.
- People own property subject to government's reserved power to reasonably regulate
- Nonetheless, a regulation of property still can go too far and become an indirect taking
  - Excessive government regulation of property can amount to compensable taking (i.e. "**Regulatory taking**" / "inverse condemnation")

TAKINGS

DOES A REGULATION AMOUNT TO AN ACT OF EMINENT DOMAIN REQUIRING COMPENSATION?

Significant "Takings" Cases

- ***Pennsylvania v. Mahon* (1922):** Excessive gov't regulation could amount to a compensable taking.
- ***Penn Central Transportation v. New York City* (1978):** Delineated factors determining when gov't regulation evolve into a taking: (1) the regulations economic impact on the property, (2) the extent to which the regulation has interfered with distinct investment-backed expectations and (3) the character of the government's action. ("Government hardly could go on if to some extent values incident to property could not be diminished without paying for every such change in the general law." … "where State "reasonably conclude[s] that 'the health, safety, morals, or general welfare' would be promoted by prohibiting particular contemplated uses of land," compensation need not accompany prohibition.")
- ***Nollan v. California Coastal Commission* (1987):** an excessive exaction amounts to taking if there is no nexus between the condition and the purpose of the restriction/exaction. ("Our cases have not elaborated on the standards for determining what constitutes a 'legitimate state interest[,]' [but] [t]hey have made clear … that a broad range of governmental purposes and regulations satisfy these requirements")
- ***Lucas v. South Carolina Coastal Council* (1992):** Total deprivation of productive or economically beneficial use of land requires compensation. ("regulations that leave the owner of land without economically beneficial or productive options for its use—typically, as here, by requiring land to be left substantially in its natural state—carry with them a heightened risk that private property is being pressed into some form of public service under the guise of mitigating serious public harm")
- ***Dolan v. City of Tigard* (1994):** excessive exaction (green space dedication and pedestrian plan required for permit approval) gov't may not condition a permit on certain requirements unless those requirements have a "rough proportionality" to the proposed development's impacts.

Types of "Takings"

- A Plaintiff seeking to challenge a government regulation as an uncompensated taking of private property must allege one of the following:

- 1) A "Physical" taking
- 2) A "*Lucas*-type" total regulatory taking
- 3) A "*Penn Central* taking"
- 4) A land-use exaction violating Nollan and Dolan "*per se* physical taking"

Excessive regulation = Compensatory Taking

- Regulation requires property owner to submit to **physical invasion of land/permanent physical occupation** of real/personal property
  - Right to exclude others is fundamental to private property ownership
- (Case is *Loretto*)

- Regulation deprives property owner of **all economically beneficial/productive** use of the land
- Even if it is, still may be justified by background principles of property law/nuisance law
- (Case is *Lucas*)

Nollan & *Dolan's* Unique Circumstances: Exactions

- "**Exaction**" = conditioning approval of development on dedication of property to public use, and they also can include conditioning development approval, e.g., permit subdivision plat, etc., upon developer making some financial commitment, such as requiring construction of public street, this is known as a "monetary exaction".
- The term "**exaction**" encompasses both requirements that land be dedicated for street rights-of-way, parks, or utility easements and requirements that developers pay "impact" or "facility" fees reflecting their respective prorated shares of the cost of providing new roads, utility systems, parks, and similar facilities serving the entire area.

Nollan

- Gov't conditioned development request on condition the owner give the gov't unrelated property interest
- U.S. Supreme Court:
  - Exaction is unconstitutional if it doesn't somehow mitigate public harms that would justify outright denial of permission
    - *Dolan* calls this the "nexus" requirement

Dolan

- Exaction required property owner to dedicate land to the public for a bike and pedestrian path in order to obtain permission to expand owner's store
- Explained *Nollan* as an application of "unconstitutional conditions doctrine":
  - Gov't can't require property owner to surrender constitutional right in exchange for discretionary public benefit
- U.S. Supreme Court said an exaction must:
  1. Mitigate harms of the proposed development (the "nexus" requirement from *Nollan*); **and**
  2. Condition must also be roughly proportional to public harms threatened by proposed development.

Otherwise, there's no definite line.

Difficulty is determining when a regulation is "excessive", requiring compensation

- Requires complex consideration of various factors
- "Ad hoc" / case-by-case determination
- But, the **greater the negative economic impact of the regulation, the more likely courts will consider it a taking**

How will courts analyze a regulation that's not so clearly defined?

- *Penn Central's* balancing test:
  - **The character of the governmental action involved in the regulation**;
    - Remember, if the government's action is a physical action, rather than a "regulatory invasion", then the action is almost certainly a taking.
  - **The extent to which the regulation has interfered with the owner's reasonable investment-backed expectations for the parcel as a whole**; and
  - **The regulation's economic impact on the affected property owner**.

A FINAL CONSIDERATION: THE "NOXIOUS USE" TEST

- If a regulation adopted under the police power to protect the public health, safety or welfare, courts have said it is not a taking, even if the taking reduces the value of the property.

TAKINGS OVERVIEW

CONCLUSION/QUESTIONS

KPAC
KENAI PENINSULA
AGGREGATE AND CONTRACTORS
ASSOCIATON

To whom it may concern:

The Kenai Peninsula Aggregate and Contractors Association does not support ordinance 2022-36. We feel that it is flawed in many ways, and in some respects, impossible to follow.

Below is a detailed list of our grievances with this document and reasons why. This includes, but is not limited to our concerns at this time. Our members are still digesting all applied situations applicable.

21.29.010 (c) This regulation gives us no access to any waterbody. It has been common in sites and mining to access non fish bearing streams and creeks within the state and even sometimes divert them for access to a commodity such as gravel or precious metals.

21.29.015 (a) This regulation went from 10ft to 32ft. 32ft buffer on a parcel less than 1 acre does not leave enough land to produce much at all. It would be extremely hard to operate in that space. Renders the exception almost useless.

(c) This regulation imposes current reclamation plans and buffers to PEU sites. While some consideration may be achieved on reclamation plans, the buffers of 32ft are likely impossible to achieve and considerably over-reaching. These PEU sites have been active or existing for sometimes longer than the KPB itself and have buffers less than 32ft. The material needed to comply may not be available and the work and cost associated to place 32ft of earth is enormous. Also, it is unbecoming of the KPB to change the deal struck years ago with the site operator or their successors.

21.29.020 (a) This regulation enlarged total acres from 2.5 to 10 acres, raised the floor 2 more feet, yet prohibits processing, screening, and crushing. This renders the permit useless as by definition, processing is what we do. 95% of our members or site operators screen material. Most have a small plant that makes very little dust or noise. Almost no complaints have been filed from this activity. Most small operations produce less than 750cu yds of material per day. The loss of 2 ft of material from the water table is unsubstantiated, and unnecessary. Not only does it create a loss of opportunity to the operator, but it takes a valuable commodity out of circulation and decreases the life of a site. This will only cause more contention with the public as more CLUP's will need to be applied for more frequently and in more areas. We feel this is going the wrong direction and we should be allowed to dig in the water table a minimum distance with standard conditions to extend the life of sites. Only if a major dig beyond the minimum distance, would a water table permit be needed.

(b) (1) Same grievance and reasoning as above.

(b) (2) Processing CLUP. This should not apply to small operations.

21.29.030 (a)(7)(e) This regulation sort of sheds the government's responsibility to construct and maintain standard roads and puts that responsibility on the site operator. All roads in the KPB should be up to KPB or State of AK standard. We pay taxes too.

(8)(b) This regulation demands we dig test holes 4 ft below proposed elevation. Some areas have deposits of gravel or peat that are deeper than common equipment can dig. It will commonly be an impossible or unnecessary task.

(9)(b) This regulation suggests the planning director may provide additional information. This information should be specifically specified as we may not always have a director that is as knowledgeable as our current director, as written, this promotes possible conflict of process.

21.29.040 (a) You have all heard my testimony on the lawfulness of viewshed rights and the few ways they are regulated or transferred. “Street-level visual screening” is just as unlawful as before, just a different angle of repose. There is no need for this language in the code, as if the operator is complying with the buffers, they will absolutely, inadvertently, achieve the screening.

21.29.050 (a)(1)(a) This regulation imposes 32ft buffer. We proposed a larger berm, and thus a buffer, but with access granted in the water table to offset the loss. One requirement without the other allowance is again, costing the operator, removing a valuable commodity from circulation with the public, and promoting more contention with the public as the frequency of new sites will surely increase because the need is naturally going to increase. The Street-level visual screening is the same as previously explained. The use of Undisturbed natural vegetation is unlawful. Please research Tigard v. Dolyn. Without giving the operator a alternative use for the property, it is a takings without just compensation.

(a)(1)(b) This regulation allows for the use of, and replacement of, the buffer slopes. We accept the idea, but 30 days is too short a time frame as material to replace the excavation may need to be hauled in as waste material from construction projects. 90 days is more suitable. Onsite material will surely be needed for reclamation since there is no provision in this document for the average pit to dig shallow ponds, thus shrinking the total area needed to reclaim.

(a)(2) This regulation prohibits use of any on site water. How are we to do any dust suppression? How do we make septic rock with a wash plant? Calcium chloride uses water to apply it as well. Traditionally we have used ponds in our sites to fill water trucks to suppress dust, run a wash plant, or obtain compaction on job sites. Without this availability, we would need outside sources, and truck it in. this goes against the intent of protecting the public safety, health, and welfare, by imposing unnecessary truck traffic. Also, the availability of outside sources is extremely small, as we can not pump out of any fish bearing source, and would not want to as responsible operators. A small pond or minimum dig in the water table should be allowed with every CLUP. Major or deep digs should be looked at with a separate permit and requirements. A minimum amount of dewatering should be allowed with each CLUP. 75,000 gallons per day should suffice. A water truck is 4,000 gal. We have been operating at this level on the KPB for 50 plus years and have no record of incident. The bonding of wells should only apply if the well is close horizontally or vertically to proposed excavation. If the dig is 15ft and the nearest well is 80ft….they are in two different aquifer formations and not connected. No need to burden the operator as we have no record of wells being damaged by a material site.

(a)(4) As explained before, this goes against the intent of this ordinance without access to a water source. May in some areas be an impossible task, as we will not be able to haul water fast enough to keep up.

(a)(6) How are we to install a monitor well if we are not allowed to excavate within 4ft of the water table? Even a drill excavates material by definition.

(a)(7) When will the setback not overlap? So this is really 282ft. Also, child care facility needs to be licensed.

(a)(9) As explained before, a permit without processing is useless. We process material by definition. We would simply be not able to operate.

(b)(1)(a),(i) Giving the planning commission discretion to 100ft eliminates any standard. How are we to speculate a suitable site if we do not have a standard that wont more than triple? Plannings discretion should not be over 300% of the standard. It should be less than 50%. "an eight-foot-high berm above the preexisting elevation may be constructed" may needs to be changed to must.

(b)(2) Roads should be kept to standard by the government. Maintenance is included in the gov. responsibility's. If we damage a road, its on the operator to repair it. Government should not shed it's responsibility. We pay taxes too.

(b)(3) ingress and egress. There is no need for this regulation. No one knows the best choice for placement than the operator. This is sort of a double regulation as we are already regulated to conform to all applicable agencies.

(b)(4) This regulation imposes operators to operate outside their ownership. Some operators don't have equipment designed for work outside the site boundary. Certain accesses may have restrictions or other permits required for activity within their ownership. A site operator can not control outside influences.

(b)(6) As stated before, any visual language should be struck from any ordinance. Viewshed rights don't allow for it.

21.29.055(b)(1) Processing hours have been limited from 6am-10pm to 8am-7pm. This is commonly not enough time to get the necessary projects done in the construction season. 7am-7pm is more appropriate as discussed with our members.

21.29.057 This regulation does not allow for any dewatering. As stated before, we need the tools to do the job. A minimum dig for a water source should be allowed with a maximum dewatering of 75,000gal. in all permits to comply with dust mitigation, wash plants for septic rock and other uses, and to be in harmony with the intent of this ordinance and not create unnecessary truck traffic.

21.29.060 There is no consideration here for post mining uses. We should be promoting post mining uses.

21.29.070 This regulation says if you meet all requirements, the planning commission MUST renew permit…but then says they may impose additional requirements and therefore, would deny the permit, in essence, if the operator did not agree with the new requirements. Government should not make a deal and then change the goal posts! Very unbecoming of the KPB to do so.

21.29.115 This regulation is probably the most egregious. Many PEU's were here before the KPB was. Many came from homesteads. Many have been passed down as a last wish of a generation to ensure the next had a form of value. Also, many sites, PEU and CLUP, have been operated for years, with the sweat equity of the operator, with the intention of someday selling the operation and retiring. This regulation almost guarantees that the value is lost. The site would immediately turn from an asset to a liability as the loss of the PEU or CLUP would initiate immediate reclamation, whether the commodity was exhausted or not. It would go against the Alaska constitution to use our resources to the fullest extent. The reality is that almost surely, the site was there before any surrounding residents were and if the site was forced to reapply for a permit, the half mile radius of opinions would not be in favor. Very unbecoming of the KPB to suggest this.

21.29.120(b) There needs to be clarification and standards in which the director would make a decision to approve or deny. We reserve our grievance on this portion of code until more information is provided.

(c) This regulation is the second most concerning. 365 days is not near enough time. This code also goes against the intent of this ordinance as it, like the lack of water, will create unnecessary truck traffic, dust,

noise, and general activity. Many larger sites sit dormant for very good reasons. Many are reserved quantities of resources for major state projects. Not unlike the four-lane connection between Soldotna and sterling. It is finally scheduled and there's a few sites that have been waiting years for it to happen. It is not uncommon for an operator to get sick or hurt for a year and skip a construction season. The residents around some of the sites that have been dormant have enjoyed a reprieve from any activity. This regulation would end that enjoyment, and guarantee activity every year. Also, this is another case that the government is changing the deal struck with operators years ago. A longer time frame may be manageable. Our members have discussed 10 years.

(f) As these are old sites, and deals were struck years ago, it will almost surely be hard or impossible for these sites to conform to the new reclamation requirements. The material may not be there to do so. If ponding or post mining uses aren't allowed, it will make it even harder to accomplish. Also, the hours of operation and reclamation plan requirements is again, the government moving the goal posts. Unbecoming.

(h) This needs to be clarified as "permitted excavation" it reads as a cease and desist order as written.

Thank you for your consideration,

Ed Martin III, President, KPACA.

From:	Blankenship, Johni
To:	Warner, Avery
Cc:	Turner, Michele
Subject:	FW: <EXTERNAL-SENDER>Fwd: Proposed KPB ordinance 2022-36 regarding CLUPs and MSPs
Date:	Tuesday, August 23, 2022 6:08:09 PM

From: Katharine M. Tongue <kmtongue@icloud.com>
Sent: Tuesday, August 23, 2022 5:51 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Fwd: Proposed KPB ordinance 2022-36 regarding CLUPs and MSPs

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Hi, Johni. I sent this to Mr. Johnson and Mr. Chesley on the 12th. Didn't hear anything back - of course they're super busy - but realized I should've cc'd you. Thanks very much. Enjoy the meeting. Katie

Begin forwarded message:

> **From:** Katharine Tongue <kmtongue@icloud.com>
> **Date:** August 12, 2022 at 12:20:13 PM AKDT
> **To:** bjohnson@kpb.us, lchesley@kpb.us
> **Cc:** John & Katie <jbandkt@gmail.com>
> **Subject: Proposed KPB ordinance 2022-36 regarding CLUPs and MSPs**
>
> Dear Mr. Johnson and Mr. Chesley,
>
> I'm writing with regard to proposed KPB ordinance **2022-36** regarding CLUPs and MSPs**.**
>
> We are a small Kasilof operation, extracting our material in stages, over the long term, conscious of the wildlife, scenery, and reasonable use of all materials involved. We engage with our neighbors in the years we operate the pit and have very good relationships. While we have sold to large highway projects in the past, we prefer to limit our sales to individual contractors and neighbors.
>
> I'm still working my way through your document, but 3 concerns are immediately apparent:

Under 21.29.120. *Prior-existing uses,* Clause D, *Expansion Prohibited* of your proposed ordinance, it sounds like you are asking that we clarify our footprint prior to October 1st in order to protect our PEU status. Do you mean that our entire PEU property must be cleared of trees? of topsoil? While beetle kill will soon render that suggestion somewhat less ridiculous, stripping our property in order to preserve our pre-existing right to extract our material strikes me as completely contrary to the goals of this amendment process. What is wrong with using current mapped parcel parameters? We can bulldoze our property/forrest but that seems counter to good sense. I think you are trying to prevent adjacent property purchasers from being offended after they did not look at a map when they purchased their land. That seems to be coddling at our expense (as well as current neighbors' when we are forced to clear a current visual and auditory barrier). Give thought to how you can achieve your goals without causing more neighborhood problems - as this directive will. We will be obliged to clear right to property lines which we have avoided thus far.

My second objection regards Clause C, *Discontinuance*. Again, given our historic and long term plan for extraction of material, there have been and may be years where there is no extraction. Why is that a problem? If you are looking to prevent operators from reopening old pits, consider a 3-5 or 10 year 'fallow' rule as opposed to one. One year is too draconian.

Third, regarding A. *Determination* and B. *Decision*, we went through this to comply with 21.29.120. (Prior existing uses. B. Owners of sites must have applied to be registered as a prior existing use prior to January 1, 2001.) Why do you need to impose this burden again? If it is intended to weed out the pits whose owners are no longer engaged, then please make the application process simple for those of us you are imposing this burden upon.

Thank you for your consideration.

Katie Tongue.
Owner, JBKT, LLC

McLANE Consulting Inc

DATE: August 30, 2022

TO: KPB Assembly

SUBJECT: Ordinance 2022-36 Amending 21.25 & 21.29
Regarding CLUP & Material Site Permits

RE: Technical Recommendations

The proposed ordinance does a good job in laying out and addressing different aspects material site permitting and the areas that need improvement regarding material site permitting and management.

After initial review of the proposed ordinance, there are two sections that I am submitting written comment on currently.

21.29.030.A.7 & 21.29.030.A.8
The Application Procedure section designates which parts of site map and site plan should be prepared by a professional surveyor versus a professional engineer. As written, these sections do not properly differentiate responsibilities of the two disciplines. Recommended amendments are as follows:

Part 7 Subsection a. Separated into both professional qualifications as follows: areas of existing excavation should be shown on Surveyor's map & areas of proposed excavation & reclamation should be part of Part 8 Engineering.

Part 7 Subsection b. Proposed buffers should be included in Part 8 Engineering.

Part 7 Subsection d. Separated into both professional qualifications as follows: areas of existing ingress/egress should be shown on Surveyor's map & areas of proposed ingress/egress should be part of Part 8 Engineering.

Part 7 Subsection e. Anticipated haul routes should be included in Part 8 Engineering.

Part 7 Subsection f. Should be separated into both professional qualifications as follows: areas of existing processing should be shown on Surveyor's map & areas of proposed processing should be part of Part 8 Engineering.

Part 8 Subsection b. Locations of test holes and depth to groundwater should be included in Part 7 Surveying.

Part 8 Subsection c. Locations of private wells of adjacent property owners should be included in Part 7 Surveying.

Part 8 Subsection d. Locations of any waterbody on the parcel should be included in Part 7 Surveying.

P.O. Box 468 Soldotna, Alaska 99669 (907) 283-4218 Fax (907) 283-3265
Email ginadebar@mclanecg.com

McLANE Consulting Inc

Basically, any existing conditions should be included Part 7 Surveying and planning related items should be included in Part 8 Engineering.

21.29.055 Earth Material Processing
The Borough needs to add in a reference to blasting. While blasting to mine or process material isn't very common in the Borough there are areas of the borough where hard-rock mining is taking place and should be covered in permitting. Blasting will also become more prevalent in the Borough as the high-quality riverbend deposited gravels are exhausted.

Please feel free to contact me if you have any questions or comments.

Sincerely,

Gina DeBardelaben, P.E.
Vice President

P.O. Box 468 Soldotna, Alaska 99669 (907) 283-4218 Fax (907) 283-3265
Email ginadebar@mclanecg.com

From: Blankenship, Johni
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>Material site 2022-36
Date: Thursday, September 1, 2022 1:25:43 PM

Laydown public comment

From: Greg Turner <prudhoedude@gmail.com>
Sent: Thursday, September 1, 2022 1:25 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Material site 2022-36

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Unregulated or grandfathered Material Sites and Gravel Pits have a long history of causing harm and pollution in KPB.
We taxpayers need to be protected with regulations and control to work permits and monitoring. Helping to prevent on going problems and issues created by these uncontrolled sites doing what is now illegal in controlled sites. Some examples in my area Kobuk between Spruce and Big Eddy are mining gravel below the aquifer level. Not having proper site slopes adjacent to roads, and high pressure gas transmission lines. Dumping on site of organic or nor organic material. Non functioning Junk heavy equipment and big trucks, pickups and other items, Atco trailers, RV's equipment shops and buildings. These new regulations can help prevent problems.

Recent 8/23/22 unpermitted water release by Glen Martin's Gravel Pit doing business as Northern Enterprises from three large ponds, created by digging 30' below the waters surface that is the exposed aquifer level. This is the natural aquifer level in the area 35-40 ft below Kobuk Rd between Spruce and Big Eddy Road. The surface of those ponds are 12'-15' above Greenridge St, my neighborhood and they are 25-30 feet deep. The released water flowed through Doug Norris's Gravel Pit off of Joplin Ct and Greenridge St covering Greenridge St.
In the past Glen Martin has breached the artisan aquifer twice that we know of in the last seven years. Once resulting in flooding of Greenridge St neighborhood and home crawl spaces yards similar to what we are experiencing now.
If you dig deeply 30' below the natural aquifer level to extract gravel to sell you end up with big deep ponds that are always going to be there. Open exposed deep water ponds are dangerous to humans and animals. Creating hazards for money that could possibly cause harm to citizens from flooding or drowning or impact water quality of the local wells.
This gravel pit has a low side 5' above the pond water level of exposed sand adjacent tp Doug Norris's Pit that looks like a dike separating and containing these elevated ponds. Not ideal as it looks more like a dam.

Filling a pond with beetle kill trees and slash or dirt will displace the water resulting in overflow of the ponds. The water has to go someplace.

Water containment, Junk equipment, miscellaneous scrap and metal, older shop buildings.

Truly amazing to look at the new regulated material sites compared to the older uncontrolled sites. Help to keep the KPB clean, vote to regulate and control these older unregulated sites and pits.

From: Blankenship, Johni
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>Visual Screening of a Material Site
Date: Thursday, September 1, 2022 9:57:11 AM

For laydown packet

From: Hans Bilben <catchalaska@alaska.net>
Sent: Wednesday, August 31, 2022 10:43 AM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Visual Screening of a Material Site

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Hi Johni,

Please forward this to all Assembly members and copy to Legal and the Planning Director

Assembly Members,

As you are likely aware, the author/authors of the proposed material site ordinance rewrite have purposely removed visual screening (other than street level, whatever that means) from the ordinance. The result of this action would be that a large number of borough residents will not have equal protection under the law. If you live at street level in a one story structure you're possibly protected, but any multi story dwellings, and all houses at higher elevations will be left totally unprotected from negative visual impact. If the author(s) have a legitimate and legal reason to deny this basic protection, please have them explain it in public. KPB code currently requires visual screening for material sites, marijuana operations, and animal feed lots. MatSu code, which seems to be the foundation for the proposed rewrite, requires visual screening. When a buffer zone is properly designed visual screening and noise screening are both dependent upon visual line of sight. To write the Standard for visual screening out of the ordinance would be a huge step backwards for the residents of this borough.

Please take a couple minutes to read the following information concerning visual

screening and its relevance to the KPB Comprehensive Plan, and please ensure that any new ordinance will continue to provide this basic protection to ALL residents of the borough.

Thank You,

Hans Bilben

The standards and conditions relating to the operation of a material site are to avoid certain land uses which may be potentially damaging to the public health, safety and welfare (21.25.020). Restrictions must be rationally related to a legitimate government objective, and ensuring protection of the public health, safety and welfare is a legitimate objective.

Standards and conditions to "minimize visual impacts" certainly shield surrounding property owners from actually seeing the material site activities. But they also do more – they mitigate against devaluing surrounding land values (a public welfare issue); they mitigate against noise (public health); they mitigate against dust (public health); they mitigate against the potential that a material site turns into an attractive nuisance (which is a dangerous condition on a landowner's property that may

particularly attract children onto the land and pose a risk to their safety) as essentially what is being created appear to neighboring (public safety); they mitigate against the negative impacts such sites have on preservation of the scenic beauty and furtherance of the tourism industry (public welfare) (Per comprehensive plan, tourism and hospitality are major parts of the Kenai region's economy and represent the second-largest private employment sector after healthcare)

The guiding principals to better regulate land use are
Balance and integrate multiple interests in land use: the right to use land as you choose; the right to not be excessively impacted by neighbors who exercise that freedom; and the shared value in protecting the underlying health of borough natural systems
Develop regulations that will minimize conflicts between adjoining uses, maintain property values, maintain and improve neighborhoods, communities and natural systems
Develop an improved set of Borough land use regulations to reduce reoccurring conflicts on the same narrow set of issues such as gravel pits.
The Comprehensive Plan specifically calls for consideration of establishing conditions that require larger setbacks, safety and visual screening, control on access routes, control on hours of operation, and address

environmental concerns.
Consideration of updating the list of topics that staff and Planning Commission may consider when setting conditions of approval. Incorporate safety, visual quality, environmental impacts and traffic impacts.

From: Blankenship, Johni
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>Fwd: Gravel pit in back of 50-51 Greenridge Drive causing flooding and eroding my property. Ordinance 2022-36
Date: Thursday, September 1, 2022 12:22:41 PM

Laydown public comment

From: DR Lee <dr.lee@live.com>
Sent: Thursday, September 1, 2022 12:09 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Fwd: Gravel pit in back of 50-51 Greenridge Drive causing flooding and eroding my property. Ordinance 2022-36

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Sent from my iPhone

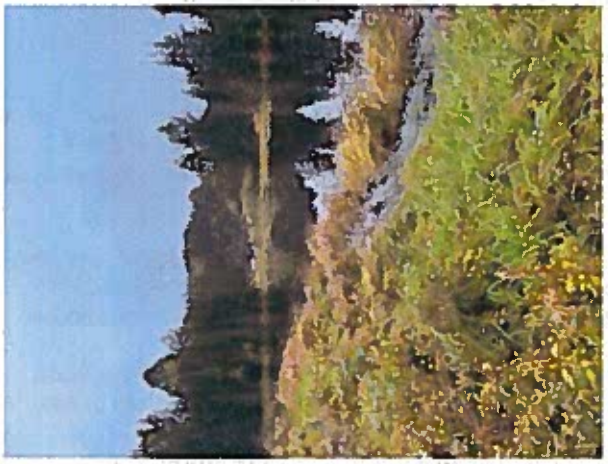
Begin forwarded message:

> **From:** DR Lee <dr.lee@live.com>
> **Date:** September 1, 2022 at 12:07:34 PM AKDT
> **To:** assemblyclerk@kpb.com
> **Cc:** Ohare Russ <ro_ua@live.com>, Soldotna Neighbors Elena Staab <elena-joy@hotmail.com>
> **Subject: Gravel pit in back of 50-51 Greenridge Drive causing flooding and eroding my property. Ordinance 2022-36**









Sent from my iPhone

We have owned lots 50-51 Greenridge Street in Ridgeway for over 12 years; and, we have never seen the pond in back of the property overflow or be even high. The pond is usually very low. For the past week the pond has overflowed and it's now eroding our property. Greenridge Street is flooded.

If you drive and observe the pit that is adjacent to Kobuk Street and Spruce Ave E and that now surrounds this area, you will see that the topography and drainage resulting from the pit overreach is changed and flooding; thus, ruining the residential property in the area. This overreach must stop.

Thank you for a quick resolution to this problem.

Sincerely,

Drs Cynthia Lee and Russell James O'Hare
907-3782987

2022-36

From Gary and Eileen D Sheridan, Anchor Point, AK

For State of Alaska residents and tourists health, safety, and sight, **Please Add this Amendment to the new KPB Regulations for Gravel Pits Under 21.29.040. Add B. Gravel Pits will not be allowed in a residential area, close to recreational State Parks and Rivers, due to the Silica that can be inhaled and cause Silicosis and other fatal conditions.**

Notice in the following articles, what other illnesses the silica dust can cause.

What is Silicosis? Please read the following articles.

https://www.stopthegravelpit.com/post/crystalline-silica-dust-the-invisible-killer
attached.

Also, From MedlinePlus - part included

https://medlineplus.gov/ency/article/000134.htm

"Causes - Silica is common, naturally-occurring crystal. It is found in most rock bed. Silica dust forms during mining, quarrying, tunneling, and working with certain metal ores. Silica is a main part of sand, glass workers and sand-blasters are also exposed to silica.Three types of silicosis occur:

Chronic silicosis, which results from long-term exposure (more than 20 years) to low amounts of silica dust. The silica dust causes swelling in the lungs and chest lymph nodes. This disease may cause people to have trouble breathing. This is the most common form of silicosis.

Accelerated silicosis, which occurs after exposure to larger amounts of silica over shorter period of time (5-15 years). Welling in the lungs and symptoms occur faster than in simple silicosis.

Acute silicosis, which results from short-term exposure to very large amounts of silica. The lungs become very inflamed and can fill with fluid, causing sever shortness of breath and a low blood oxygen level....Intense exposure to silica can cause disease within a year. But it usually takes at least 10 - 15 years of exposure before symptoms occur. Silicosis has become less common since the Occupational Safety and Health Administration (OSHA) created regulations requiring the use of protective equipment, which limits the amount of silica dust workers inhale....."click on the reference above to finish reading.

Also read please
https://www.sciencedirect.com/topics/medicine-and-dentistry/silicosis

The noise even a block away can cause such noise to disturbances as it did me this summer after a busy day and needing sleep. Can you imagine being a visitor coming to enjoy the State camp ground on the Anchor River for a week's or holiday vacation and having to deal with the noise of the machines working the gravel pit and trucks.

I don't know how the KPB can possibly agree to have a gravel pit and mining that may cause such illnesses to our families, grandchildren, and tourists. I'm now scared for my grandchildren that came this summer to fish and vacation with grandpa and grandma and enjoyed running around in our yard, riding the bikes grandpa had fixed up for them. Have we unknowingly allowed them to have the start of Silicosis from the gravel pit which was denied but then given 2.5 acres to work? We built a "Beachy Built Home" with an air system never expecting to have

From Gary and Eileen D Sheridan, Anchor Point, AK

a gravel pit being put in 15 years later. That fine dust gets in everything. Look at the different types of cancer that has been shown to be causes of gravel pits and mining. I know what it is like to fight cancer. I had just started treatments in Soldotna when we first found out there was a plan to have a gravel pit in our neighborhood. Our rivers help bring our tourist businesses, and we should protect those businesses, too.

Respectfully submitted to the work group of KPB to update regulations for Gravel Pits,
Eileen and Gary Sheridan

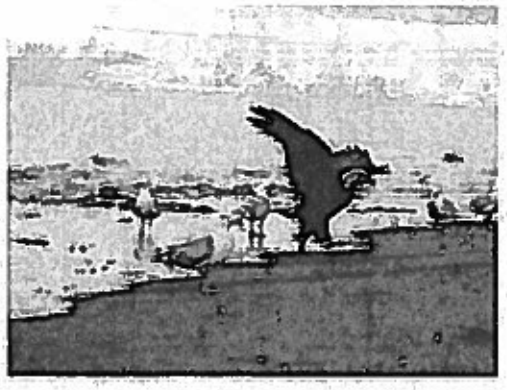


Photo by friend of ours who visits us almost every year.

Crystalline Silica Dust — The Invisible Killer

How a *Totally Unnecessary* Gravel Mine Would Create

Widely Known Deadly Health Issues

That Would Harm Hundreds of Benzie County Residents

Developed for and Presented to the

Homestead Inland Joint Planning Commission

December 6, 2019

prepared by

Friends of the
Platte River
Watershed

Crystalline Silica Dust — The Invisible Killer

Summary

The proposal of an open pit gravel mine in a district zoned Rural Residential creates numerous very serious consequences. This report primarily examines the devastating heath issues created by crystalline silica dust, an unavoidable byproduct produced when mining gravel.

Until recently, few understood the dangers created by crystalline silica dust. Unlike normal sand, crystalline silica dust has razor sharp edges and is microscopic in size. When inhaled, it bypasses the body's natural defenses and become *permanently* lodged in the deepest parts of the lungs. It has proven links to diseases that lead to death including silicosis, lung cancer, COPD, renal failure, and kidney disease as well as causing auto-immune diseases like rheumatoid arthritis. These health issues are so grave that OSHA and MIOSHA have recently adopted new safety standards to deal with crystalline silica dust. Both agencies are involved in a massive educational drive to warn workers about the dangers.

Not only is crystalline silica dust deadly, it is difficult to control. Clouds of it can easily be swept up and carried by the wind for tens of miles. Even in what weather experts call 'calm' winds, this deadly dust can travel for miles settling in the yards and on the homes and innocent bystanders in Inland Township, its three neighboring townships, and even further.

All of the related diseases crystalline silica dust is widely known to cause serve as sufficient proof of a 'very serious consequence' health based issue as required under MCL 125.3205 Sec. 205 (5)(e). Denying the requested special use permit for this totally unnecessary gravel mine at parcel 08-006-007-00 is the only logical, fair, and humane course of action the HIJPC can take.

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Direct any questions
about this report to:

Jim Brouwer
Friends of the Platte River Watershed
jim@platteriverwatershed.org

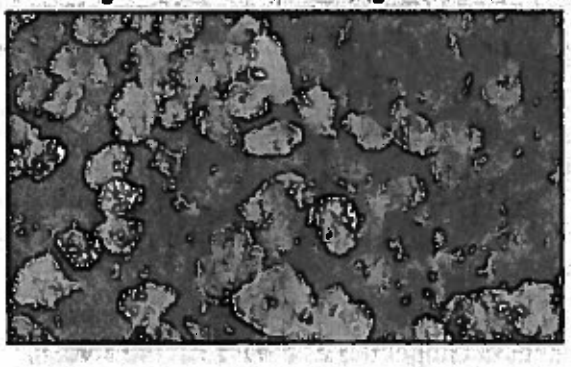
Sand's Tiny Secrets – Size, Material, & Shape

Sand holds some interesting secrets. We think we know what it is, but do we? Technically, 'sand' is any sediment whose particles are 60µm (microns or micrometers) or larger. Granules smaller than 60µm down to 2µm are considered 'silt.' For a point of reference, the hairs on your head are typically 10µm thick.

Sand is often referred to as 'silica.' Most sand deposits are primarily made up of quartz, but other minerals are usually found. Quartz is *crystalline silica*, a silicate mineral made of silicon dioxide (SiO_2), silicon and oxygen. It is the most abundant mineral found in sand.

Figure 1 shows a typical sample of sand, not unlike that which is found all around northern Michigan. It is comprised mostly of crystalline silica (quartz), with some epidote, garnet, potassium feldspar, and a few other minerals.

Figure 1 – 'Sand' (300x Magnification)

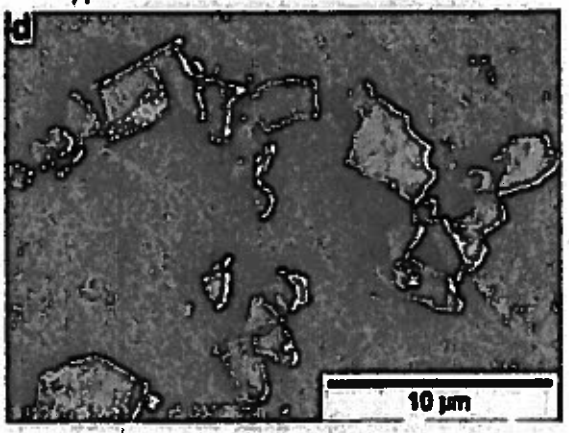


Different types of sands are put to work in a wide range of useful applications including: road construction, concrete, filtration, glass, ceramics, and computer chips. They also vary considerably in their marketable value.

Most sand with which we are familiar is heavily weathered. It has the familiar shape of stones washed up along the Lake Michigan shoreline. While their sizes may vary a bit, they all have nicely rounded, smooth edges.

Digging into the earth when mining for gravel, the size and shape of these unweathered common sand granules change dramatically.

Figure 2 – Crystalline Silica Dust (5,000x Magnification)
Appendix A shows three even smaller sizes.



Note the 10µm graphic in Figure 2. That's the width of a typical human hair. Anything smaller than 5µm is invisible to the naked eye, unless there are billions of particles — as in crystalline silica dust clouds (see Appx. D p.4).

These jagged microscopic sub-10µm particles are as sharp as a stone-age flint knife — and they can kill you![1]

Crystalline Silica Dust *IS* Deadly

Unlike beach sand which is just annoying when it sticks to your skin and swimsuit, crystalline silica dust *is* a killer. Don't take our word for it, just take OSHA's.[2]

> *"[Those inhaling] these very small crystalline silica particles are at increased risk of developing serious silica-related diseases."*

[1] Silica...It's Not Just Dust: Silica Dust Causes Silicosis - What rock drillers can do to protect their lungs from silica dust, Center for Disease Control and Prevention, National Institute for Occupational Safety and Health, NIOSH Publications, 97-118, July 1998

[2] *Respirable Crystalline Silica*, Occupational Safety and Health Administration, United States Department of Labor, osha.gov/dsg/topics/silicacrystalline/

In 2017, OSHA completely revamped their requirements for worker safety when engaged in activities where crystalline silica is present.

Plastered all over OSHA's website and materials is the warning graphic shown here.



So, what exactly are those 'serious silica-related diseases?" They include (but are not limited to):

- **Silicosis**
- **Lung Cancer**
- **COPD (Chronic Obstructive Pulmonary Disease)**
- **Kidney Disease**

Silicosis is an *incurable* lung disease that leads to disability and death. We've all heard of 'black lung disease.' Black lung expert, Dr. Robert Cohen, has recently warned that

> *"[Crystalline] Silica could be even more dangerous to workers than coal dust.*
>
> *[Crystalline] Silica is actually a lung carcinogen. And it causes renal disease, it causes other auto-immune diseases like rheumatoid arthritis and other things, so silica exposure is a huge problem.*[3]

So serious is this issue that even the Michigan Aggregate Association (the lobbying organization behind the totally discredited MDOT *Michigan Aggregates Market Study Ph I & Ph II Reports*) is actively encouraging its member supporters to attend OSHA approved silica training![4] Why does the MAA promote this you ask?

> *"To increase workers' **awareness of the serous health hazards of silica dust** and provide the knowledge necessary for employee protections."*

Why is Crystalline Silica Dust So Deadly?
Mother Nature provided our respiratory tracts with a host of protective mechanisms to 'filter out' most of the junk that *naturally* occurs in our air. Since most of what nature throws at us is over 10µm in size, we do a pretty good job of keeping the bad stuff out of our bodies.

However, breathing crystalline silica dust is the equivalent of inhaling millions of microscopic razor blades. As shown in Appendix A, these dust particles can be as small as .01µm.

These invisible particles pass all body defense mechanisms and become embedded in the deepest reaches of the lungs. This is where the greatest danger lies as they reach the alveoli, the finest branches of the lungs where the oxygen/carbon dioxide exchange takes place.[5]

When inhaled, particulate matter larger than 5µm usually gets trapped and expelled before it reaches the lung's gas-exchange zone. Particles smaller than 5µm are considered to be 'respirable,' meaning they can reach the deepest parts of the human lungs.

---

[3] *Silica safety urged in QLD*, OHS Career, March 21, 2017, ohscareer.com.au
[4] *Protecting and Promoting Your Interests*, Michigan Aggregate Association, November 16, 2019 See Appendix B
[5] A. Voss and S. Alfano, *The Body's Defenses Against Breathing Dirty Air*, ProRemodler, June 23, 2016

Mother Nature never planned on us being exposed to crystalline silica dust, certainly not in the quantities produced by our many industrial activities. Silicosis can develop very quickly and (short of an entire lung transplant) is completely untreatable.

Think You're Safe? — Wrong!

OSHA is making a tremendous push to raise worker awareness of the real hazards created by crystalline silica dust. Wearing adequate dust protection, respirators, and controlling the dust in the first place will save countless lives. How about those who don't work around this stuff?

Non-occupational exposure to crystalline silica dust is even greater cause for concern. As this 'killer dust' spreads miles past its place of origin it not only lingers in the air but settles everywhere — including *inside* homes.

We spend the majority of our time at home. Depending on our job and lifestyle that can be 70%-100% of our time. Unlike a protected work environment, exposure at home is unprotected and constant. Home settings also includes children and the elderly who are more vulnerable than able bodied workers. Not only do children breath more deeply than adults, their smaller body mass means their comparable exposure risk is much higher.[6]

Exposure limits for crystalline silica differ considerably between work and non-occupational exposure. OSHA's permissible exposure limit is 50 micrograms per cubic meter during an 8-hour workday.[7] Michigan follows these guidelines which includes an 'action level' set at 25 micrograms per cubic meter. Michigan also requires employers to safeguard employees from exposure, provide them with respiratory protection, maintain medical surveillance, engage in hazard communication, and keep good records.[8]

For those who spend all their time at home, equivalent exposure limits would fall below 12 micrograms per cubic meter for exposure and 6 micrograms per cubic meter for action.

I'm Nowhere Near Silica Dust — Really?

Turns out, size really does matter. For crystalline silica dust, the smaller it is the more threatening it becomes. Not only is this invisible dust respirable, it easily becomes airborne, stays airborne for extended periods of time, and travels incredible distances.[9]

Particles typically need to be under 200µm in size to become airborne. Those smaller than 10µm are invisible and smaller than 5µm penetrate our immune system. As shown in Figure 3, dangerous crystalline silica dust easily travels for miles. It not only affects people at the source but those in surrounding neighborhoods. In some measured cases as far away as 50 miles.[10]

Figure 3 – Distance Traveled by Particulate Size

Wind Speed (mph)	Miles Traveled 10µm	5µm
3.1	0.55	2.2
6.2	1.1	4.5
12.4	2.3	9
24.8	4.6	18
37.3	6.9	27
49.7	9.2	36.1

[6] J. Warren, *Silica Monitoring*, Public Lab, publiclab.org, February 22, 2018
[7] C.A. Epstein, *Everything You Need to Know About OSHA's Respirable Crystalline Silica Final Rule*, February 2, 2018, oshaonline.com
[8] *Crystalline Silica Exposure*, MIOSHA Fact Sheet, CSH Fact Sheet - #109, Revised October 12, 2017
[9] *Silica Dust Particle Size Causes Problems*, BossTek, 2019, bosstek.com/silica-dust-compliance/silica-particle-size-behavior
[10] *How Far Can Respirable dust Actually Travel?*, Insider News, NeSilex, September 24, 2019

How Far Will Silica Dust Spread Here?

The only available historic 'local' wind measurements are those taken at the Frankfort and Traverse City airports. Appendix C contains the diagrams of the wind history at both airports for the months of May – October (the busiest times for gravel production).

Roughly one-third of the time the wind is calm (less than 5.8mph). Calm doesn't mean 'dead calm.' Shown as red in Figure 5, at 5.8mph respirable silica would still travel 4.2 miles from the proposed 150-acre gravel mine.

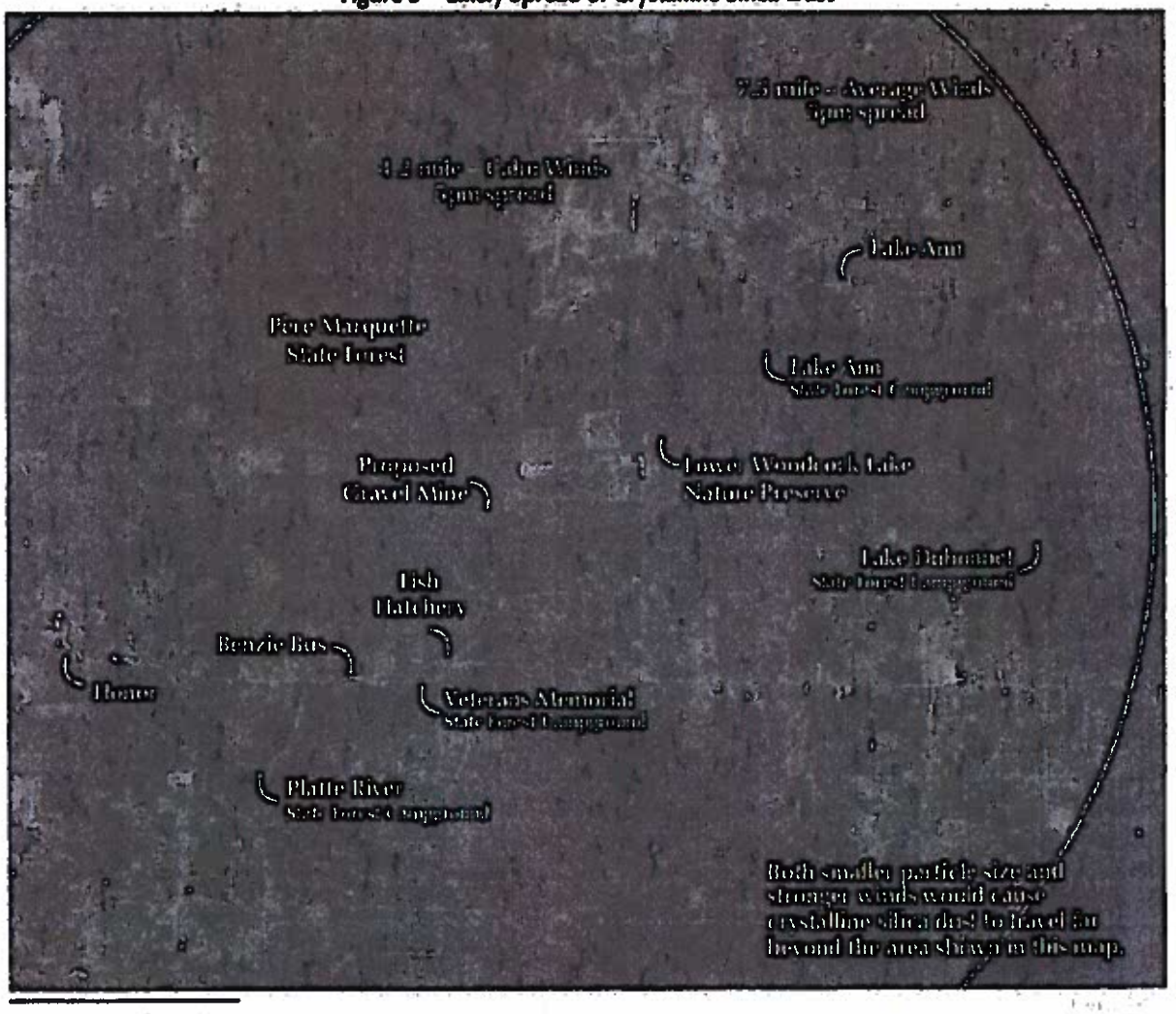
This area's Average windspeed over the past three years for May – October, the average Maximum sustained winds, and average Gusts are shown in Figure 4. The miles that silica dust can be spread relates to particulate size.[11]

Figure 4 – Crystalline Silica Dust Wind Distribution

	Wind Speed (mph)	Miles Traveled 10µm	5µm
Calm	<5.8	<1.0	<4.2
Average	10.3	1.9	7.5
Maximum	23.9	4.4	17.4
Gusts	39.8	7.4	28.9

Note: Silica Dust smaller than 5µm travels even further!

Figure 5 – Likely Spread of Crystalline Silica Dust



[11] While wind data was pulled from the Weather Underground, all data originates from the National Centers for Environmental Information, National Oceanic and Atmospheric Administration.

It's easy to understand how these microscopic razor blades carry so far in gentle winds. Strong gusts can carry crystalline silica dust all the way to Traverse City or Frankfort. As duly noted in the Homestead Inland Townships Master Plan, this truly is an issue of "Greater Than Local Concern."

Where's the Problem? – You Can't Be Serious!
Mr. Leman has done little to instill confidence that he understands the consequences of his desire to have a hobby gravel mine. In a September 12, 2019, TV 7&4 News interview, Mr. Leman states

> *"There's no production things we processes that we would do here which would pollute the ground in any way. That sand and gravel is already in the ground."*

Seriously? It is obvious he doesn't understand the environmental impact of gravel mining or the dangerous release of crystalline silica dust which mining causes.

Mr. Leman is also quoted in that interview and in papers saying he's only going to work on 4–acres at a time. Yet all of the plans submitted to and described at HIJPC meetings clearly show sections of 6+ acres. If he is so inattentive to these and other details, how can he ever be trusted to understand or look after what's necessary to run a gravel mine safely?

Crystalline silica dust is a serious health issue. Given Mr. Leman's lack of responsiveness to providing a complete and timely application, let alone his inconsistency within those plans, many believe he's not taking things seriously. If that's the case and if his special use permit is granted, many wonder if he would ever follow safety precautions or take any laws seriously.

Given there appears to be no statutory value to the gravel as defined under MCL 125.3205 Sec. 205 (3) and there are considerable health risks, in the opinion of neighboring residents the risks completely outweigh the non-benefit.

Having focused on the harm silica dust does to humans, the same needs to be noted about the local wildlife. Further, local organic farming would also be disrupted as the strict protocols of being organic are unavoidably, unfairly, and unjustifiably violated. Even on a 'calm' day, over 55-square miles are put at risk. Kick the wind up to 'average' speed and the number jumps to over 176-square miles.

It is abundantly obvious that allowing the operation of an open pit gravel mine would create uncontrolled crystalline silica dust.

Beyond the flood of studies readily discoverable online and the recently adopted push by OSHA to protect workers, this report clearly outlines the very serious consequence that would result from granting the requested special use permit. It fulfills the requirement of defining a 'very serous consequence' under MCL 125.3205 Sec. 205 (5)(e)

> *"The impact on other identifiable health, safety, and welfare interests in the local unit of government."*

But It's Just a Small Operation – Yeh, Right!
Getting one's foot in the door appears to be a standard ploy. There are dozens (if not hundreds) of stories about little mining operations that were never supposed to grow much bigger — but did — and did so quickly. Here's just one of those stories.

Downstate in Grass Lake Township, just 25 miles west of Ann Arbor, the Bohne Road Gravel Mine started as a little operation.

The local farmer was granted a special use permit to mine sand on his land for his own use on his farm. No big deal, right?

Then the farmer sells his farm to a company that expands the mine's operation into gravel extraction — hey, the special use permit said sand and gravel, not 'just sand.' The mine grew quickly. So did the problems.

In addition to the quality of life disruption and property devaluation experienced by the gravel mine's neighbors, crystalline silica dust became problematic. As some residents shared with their planning commission[12]

"...the dust issue is a HUGE factor here."

"The gravel pit is a serious health risk."

"...my windows haven't been open since the mine was started."

"There is dust all over the plants and trees in the yard as well as the house and car on a daily basis."

"The dust is a nightmare!! It's constantly in the air..."

"We are concerned for the health of our family, my daughter and I have sever asthma ... we will have to continue to wear our masks to try and keep the contaminants out of our lungs. Why do we have to suffer?"

"There is overwhelming evidence regarding longterm silica dust exposure and respiratory disease. Residents near Bohne Road gravel pit testified they now suffer form respiratory diseases such as asthma and COPD."

"Why should the residents be subjected to all these issues from this gravel pit?"

The last comment raises a great question.

Figure 6 – Crystalline Silica Dust *Inside* a Home
(near the Bohne Road Gravel Mine)



As the years passed, the gravel mine was sold to its new owner who now wants to expand operations even further. What was once a 'little private sand mine' has turned a community upside down with a full-blown gravel mining as shown in the pictures of Figure 7 on the next page.

Don't Tell Us It Can't Happen Here!
It could. Far too easily it could. Need or benefit of this gravel mine does not exist. The damage to the community would be devastating and permanent. The HIJPC has evidence of very serious consequences which it can utilize to equitably and justifiably deny the requested special use permit. Crystalline silica dust is perhaps the most compelling of all very serious consequences.

[12] Excerpts from a private Memorandum from Dr. Sandra McCoy, December 3, 2019, full memorandum in Appendix D

Figure 7 – Bohne Road Gravel Mine, Grass Lake Township, Michigan



What started as a small private sand mine grew into a sprawling gravel mine that damaged the lives of hundreds of neighbors.

Conclusion

To the communities' knowledge, Mr. Leman has failed to provide credible evidence that there is a need for more gravel production in Benzie County. With over a dozen-and-a-half gravel mines within 2 – 12 miles with at least two being major operators, supply far exceeds demand.

To underscore Mr. Leman's apparent lack of market awareness, in his September 12, 2019, TV 7&4 News interview, he states

> *"People want to move to our area and the demand for construction materials is certainly there. Sand and gravel from our community means you don't waste fuel and truck this stuff in from a long ways away. They can get it right down the street."*

First, as noted in the newly formed Inland Township Planning Commission's November 27, 2019 draft Master Plan, as reported by the official U.S. Census, Inland's population has fallen 8.6% since 2010. People certainly may *want* to move here, but the official numbers suggest they aren't doing so. "Demand for construction materials is certainly [here]" — and it is being more than sufficiently met by existing operators. More gravel mines in our area *are not* needed.

Second, there isn't much building going on 'right down the street' from this 150-acre Rural Residential parcel. Even with the horrible milage a gravel truck gets, given the close proximity of existing gravel mines, any theoretical savings on 'wasted fuel' is meaningless.

Mr. Leman's hasn't and likely can't justify that mining at this Rural Residential property would produce revenue of a sufficient enough level that he could reasonably expect to operate at a profit, a requirement under Michigan's Zoning Enabling Act, MCL 125.3205 Sec. 205 (3). In the opinion of many, under this act, this lack of profitability precludes finding value in the gravel on that property.

Even if there were valuable minerals to be found there — a hypothetical, not an acknowledgement — the HIJPC must, as required under Michigan's Zoning Enabling Act, balance that value against the very real health issues extracting it would create.

Clearly stated in MCL 125.3205 Sec. 205 (5)(e) and supported by OHSA, MIOSHA, scores of other reputable organizations, and health experts worldwide, the dangers of crystalline silica dust definitely creates a 'very serious consequence' that would

> *"impact on other identifiable health, safety, and welfare interests in the local unit of government."*

The residents of Inland Township and Benzie County would be unduly and unnecessarily punished if the special use permit for parcel 08-006-007-00 were approved.

For the negative financial impacts it would impose on local property values, granting a special use permit would be unfair. For the unavoidable health problems it would unleash, such a decision would be downright cruel.



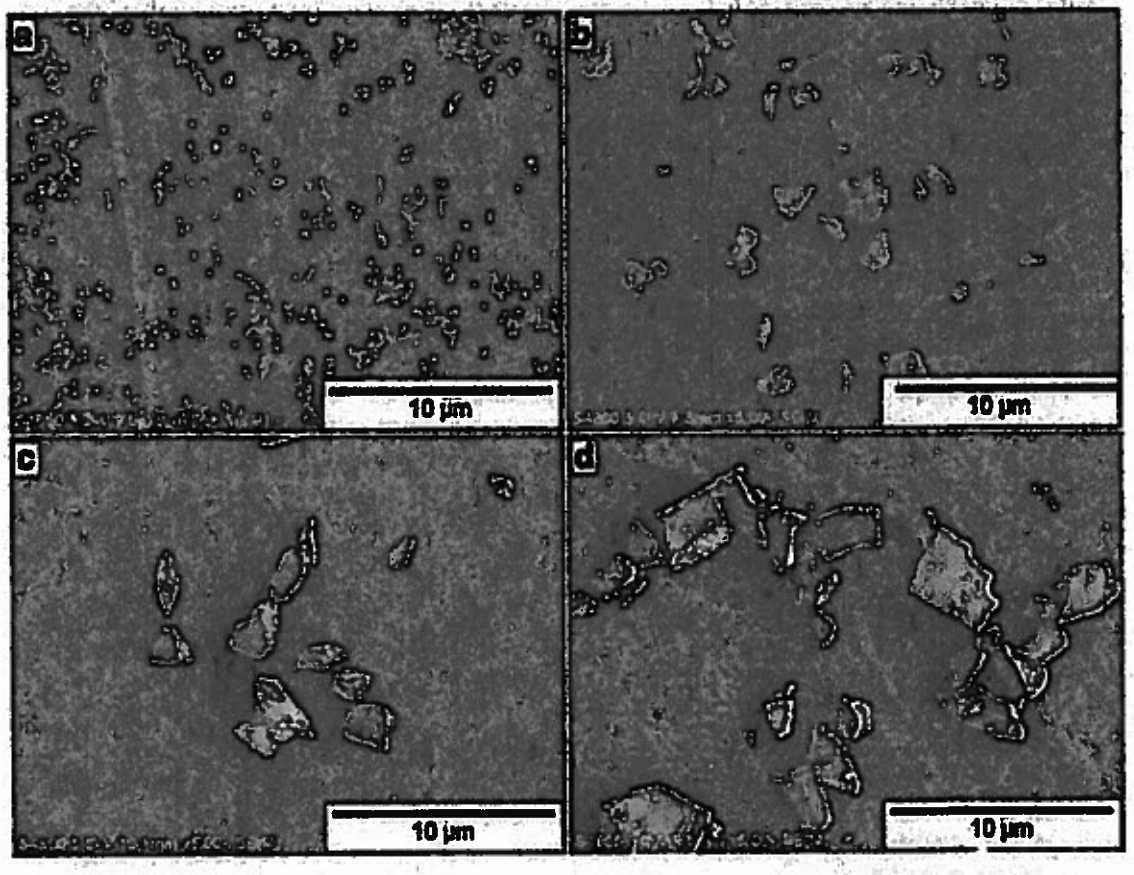
Appendix A

5,000x Images of Crystalline Silica Dust

These electron microscope images of the crystalline silica dust sort their sizes from 'ultra-fine' (as small as 0.01µm) to 'course' (up to 7µm). For reference, 10µm is the typical width of a human hair, represented here as the graphic insert of each image.

At sizes of 5µm and smaller, these microscopic razor blades are not only invisible, they are respirable. That is, when inhaled, they bypass all immune system defenses and can travel all the way to the deepest parts of the human lungs. There they *permanently* imbed themselves and begin creating their havoc on one's health.

As reported here and recognized by the medical community around the world, crystalline silica dust is deadly. It causes silicosis (an *incurable lung disease* that leads to disability and death), lung cancer, COPD (Chronic Obstructive Pulmonary Disease), kidney disease, renal disease, and auto-immune diseases such as rheumatoid arthritis.



Comparison of SEM Images of the four sizes of crystalline silica particles used for this study.
(a) Ultrafine (UF), (b) Submicron (S), (c) Respirable (R), and (d) Coarse (C).
Images are all at the same magnification (5,000x)

SOURCE: S.E. Mischler et al, *Differential activation of RAW 264.7 macrophages by size-segregated crystalline silica*, Journal of Occupational Medicine and Toxicology, DOI 10.1186/s12995-016-0145-2, December 15, 2016

OSHA Approved Silica Training



MAA and MITA has partnered with Wayne State University to offer Respirable Crystalline Silica training.

This program was developed though an OSHA Susan Harwood Training Grant and is designed for the construction industry (construction professionals including but not limited to workers, site superintendents, project managers, safety managers) to increase workers' awareness of the serious health hazards of silica dust and provide the knowledge necessary for employee protections.

The training covers the new OSHA Standard on Respirable Crystalline Silica (29 CFR 1926.1153) and it aims to increase workers' awareness on the serious health hazards associated with silica exposure and provide the knowledge necessary to perform work safely when there is silica exposure and ways to limit silica exposure.

Trainees who complete all the training steps will be eligible to receive a certification.

The cost for the training is provided by funds from the grant but space is limited (max 30), so if you are interested please contact the MAA office to register. Space will be filled on first come basis.

Training dates and locations are as follows:

All training times will be from 10:00 am to 12:00 pm.

December 17, 2019
Michigan CAT
Grand Rapids, MI

December 18, 2019
AIS Construction Equipment - Lansing
3600 N Grand River Ave
Lansing, MI 48906

For more information about these sessions, please click here.
(https://gallery.mailchimp.com/d250bd5a823dc5dd5e1625052/files/f6fc3d95-753e-44ad-9b3a-b1ae46de08bf/SH_Silica_Training_Marketing_Flyer.pdf)

If you have any questions, please contact the MAA office at 517-381-1732

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Appendix B (p.2)

OSHA SUSAN HARWOOD GRANT
RESPIRABLE CRYSTALLINE SILICA SAFETY TRAINING

In-Class Silica Safety Training for Construction Industry

Effective October 23, 2017, OSHA has been fully enforcing all appropriate provisions of the Silica in Construction standard.



Our OSHA APPROVED TRAINING MATERIALS were developed under an OSHA Susan Harwood training grant and designed for the construction industry to increase workers' awareness of the serious health hazards of silica dust and provide the knowledge necessary for employee protections.

This training is for all the construction professionals including but not limited to workers, site superintendents, project managers, safety managers and employers.

If you are interested in an in-class training for your company or organization, please contact one of the training coordinators below to schedule a session.

Training Session Scheduling or for More Information Please Contact

Mumtaz A. Usmen, PhD, PE
e-mail : musmen@eng.wayne.edu
Phone: (313) 577-3608

Emrah Kazan, PhD
e-mail: ekazan@wayne.edu

TRAINEES WHO PARTICIPATE in and complete the whole training will receive a certificate.



Training contact hours:
1.5 to 2 Hours

Sign-Up
- *Demographic information*

Pretest
- *We measure trainee's existing knowledge*

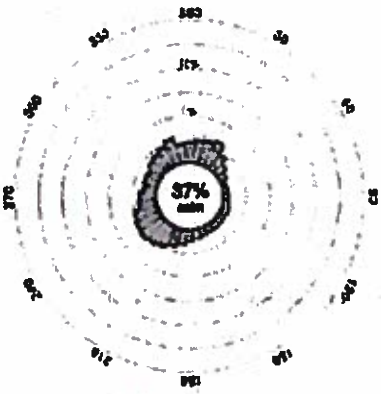
Presentation
- *OSHA approved training module*

Posttest
- *To assess the knowledge gain after the training*

Opinion Survey
- *We would like to hear your opinion and feedback on the training*

This material was produced under a grant (SH-05038-SH8) from the Occupational Health Administration, U.S. Department of Labor. It does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does the mention of trade names, commercial products, or organization imply endorsement by the U.S. Government.

KTVC: Cherry Capital Airport



Frequency by Direction



Average Speed by Direction

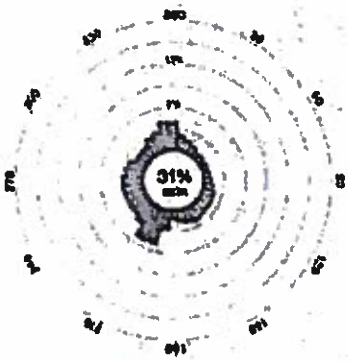


44.7439, -85.585 WeatherSpark Wunderground VFRMap RunwayFinder NavMonster

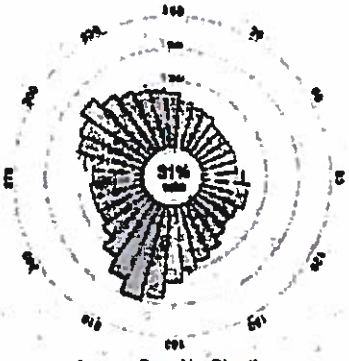
A diagram of the prevailing winds at KTVC: Cherry Capital Airport. The blue diagram at left is a wind rose: the bar length shows the frequency of winds from each direction, in the red diagram at right the bar length shows the average speed of winds when they come from that direction. For more information, see about this site.

Wind History. Copyright © 2011 Deadwise Bits, LLC. All rights reserved.

KFKS: Frankfort, Frankfort Dow Memorial Field Airport



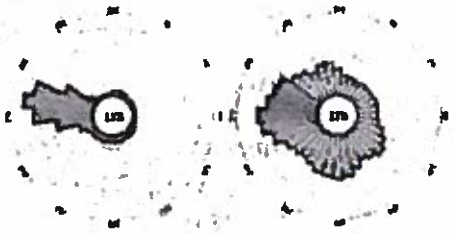
Frequency by Direction



Average Speed by Direction



Station view



The station view shows the prevailing winds for a single weather station. Above is an example image for KSFO, San Francisco airport.

The blue diagram at left is a classic Wind Rose. The length of each bar is proportional to the frequency the wind comes from each direction and the colour is proportional to the average speed. At KSFO the wind is pretty much always from the west. The most common direction is 290°, 10% of the time with an average speed of 15kts.

The red diagram at right shows the same data as the wind rose but emphasizes wind speed. Bar length is proportional to average speed and colour is proportional to frequency. At KSFO northeast winds are rare, and when they come they tend to be light. The strongest winds come from 270°, 15kts 11% of the time.

You may hover the mouse over a bar to see exact textual data. In both diagrams the percentage in the middle indicates how often the winds are less than 5 knots (12% at KSFO). There are links on the station page for further information. WeatherSpark is a particularly nice complementary site showing historical weather.

Month filter

The month filter allows you to display prevailing winds for specific months. Click the calendar wedges to toggle each specific month off and on. Click the play button in the middle to animate your selection through the year.



Data

The source data for these graphs is the NOAA archive. METARs from 2008 to 2010 were parsed and crunched to calculate average winds for each weather station. Reporting variance and data processing errors mean these diagrams are not true statistical samples.

Browser compatibility

This site makes extensive use of SVG for graphics. It should work fine in modern versions of Firefox, Safari, Mobile Safari, Chrome, and Microsoft Internet Explorer 9. It will not work in IE 6, 7, or 8 and never will.

Feedback

This site is a labour of love: feedback and suggestions are most welcome. Please mail comments@windhistory.com with any thoughts you have. Some planned enhancements include showing winds for specific months and showing more detailed histograms.

SOURCE: Weather Underground wundergournd.com reported data from NOAA (National Centers for Environmental Information) National Oceanic and Atmospheric Administration

Appendix D (p1)

MEMORANDUM

TO: Jim Brouwer, Friends of Platte River Watershed

FROM: Sandra McCoy, Ph.D.

DATE: December 3, 2019

RE: Bohne Rd Gravel Mine, Grass Lake, Michigan

Jim,

I moved to Grass Lake Township, Michigan 1-1/2 years ago. Grass Lake is a small town, about 25 minutes West of Ann Arbor. It has a delightful "rural" character and that is what draws many people to settle here. Grass Lake Township has been embroiled in conflicts for many years concerning the incursion of gravel mining into residential areas in our community.

I am pleased to provide some excerpts from letters written by the residents of Grass Lake Township to their Township government over the past several years concerning the Bohne Rd gravel mine which has operated since 2003. These letters were obtained through a FOIA request. Also included are excerpts from Grass Lake Planning Commission meeting minutes. Many of the comments illustrate the negative effects of dust and health concerns related to mining operations in close proximity to residential areas.

> "We purchased 5-1/2 acres of land... in 1999 to build our final dream home. Since the start of the sand extraction operation... in August, 2003, our lives have been totally disrupted and our land value has definitely gone down." "Needless to say the dust issue is a HUGE factor here. The day they were doing this our whole house and deck were covered with dust and still is. I can't even open my windows. These big earth movers were coming by our property every 10 minutes and the noise and dust was unbearable."
>
> "Gravel pits in residential areas undoubtedly cause health and safety concerns and much disturbance for surrounding residents... The gravel pit on Bohne Road as currently operating provides no benefit to Grass Lake Township.... We need to consider the more than 200 people that live within a 2 mile radius of the gravel pit with many living within 50-100 feet of pit operations. These people have stated they now must close their windows due to the dust created by gravel pit operations. This certainly is not a desirable condition for them and we can and must protect the value of our homes, the environment and keep our township a safe place to live in."

"The gravel pit is a serious health risk. There are no six foot trees on the berm to eliminate dust. Many people have not been able to walk in the area as a result of the extreme dust and probable air-borne, dangerous silica. There is no monitoring for silica contamination in the air and in the well water." "There has been no MDEQ study done prior to the original SUP to check for environmental health hazards and issues, including acquifer and water table contamination (well water contamination) and negative wildlife issues."

"I would have my windows open to let the fresh air in... Now my windows haven't been open since the mine (then called gravel pit to make it sound smaller and unobtrusive) was started. There is dust all over the plants and trees in the yard as well as the house and car on a daily basis. Inside my house, a layer of dust accumulates within a few days. I don't work in the yard anymore or hang my clothes outside... I've become a prisoner in my home which is supposed to be an enjoyable, safe haven and an investment."

"We live in a log home on Sager road that we built in 2000 and it was supposed to be our dream home." "We couldn't even open our windows at all and still can't. The dust is a nightmare!! It's constantly in the air... and it's destroyed the finish on our home & decks and we have to clean it multiple times in a year now versus every 4-5 years." The biggest and closest to me is being diagnosed with a blood cancer called Multiple Myeloma. I went thru chemo for 9 months twice a week and had a stem cell collection. It's been the hardest 2 years of my life!!! I asked my dr. at the UofM cancer center what is the cause of Multiple Myeloma?? He said there is a connection from diesel fumes in the air. There are diesel trucks running all day long right behind my house since they opened this sand mine around 2001 or 2002. So this has been going on for around 17 years now."

"We are concerned for the health of our family, my daughter and I have severe asthma and are worried over the silica dust among other gravel pit issues that has caused our asthma to be in a constant state of flux. We are concerned with the location of the gravel pit being so close to our property and our well that we use for water. We don't want our well to be contaminated... We unfortunately are not in a position to move, so we will continue to keep our doors and windows shut, continue to have our house vents, ac and heat checked for contaminants that the gravel pit puts upon us, we are not able to enjoy sitting outside on our deck, swimming in our pool and we will have to continue to wear our masks to try and keep the contaminants out of our lungs. Why do we have to suffer?"

"There is overwhelming evidence regarding longterm silica dust exposure and respiratory disease. Residents near Bohne Road gravel pit testified they now suffer from respiratory diseases such as asthma and COPD."

"The site alone is appalling with the noise, dust, contamination of the stream near the gravel pit, the pond, wildlife absent and natural resources. Why is this gravel pit still in operation, from failing to comply with the agreement from 21 March 2018?" "Why should the residents be subjected to all these issues from this gravel pit".

"8/15/19 1.33pm to 1.40pm, while my husband and I were driving along Bohne Rd, Grass Lake, right near the Bohne Rd Gravel Pit. The dust was so bad we had to pull over on to the side of the road because we couldn't see in front of us." "No only is this mine dangerous to any vehicle who happens to travel along Bohne Rd, the health issues caused by the dust and diesel fumes are catastrophic."

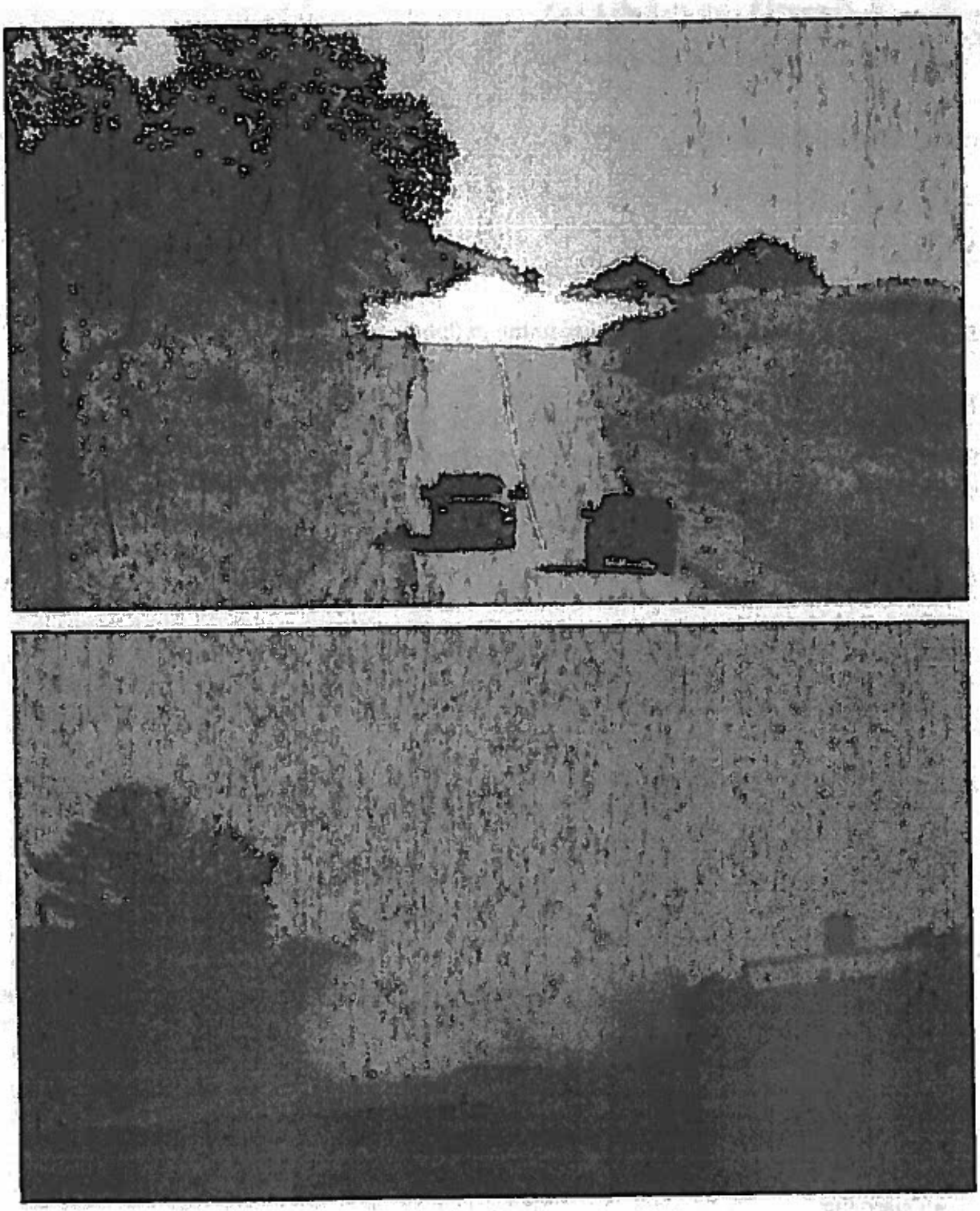
I think the issue is best summed up by one Bohne Road resident in a letter to the Township, urging them not to renew the mine permit:

"The residents need to be able to open their windows, sit outside, children need to play outside, they need sleep, they need peace and quiet, most importantly, they need to breathe, be healthy, and they need to smile and dream again."

A2 McCoy



Appendix D (p4)



MedlinePlus
Trusted Health Information for You

URL of this page: //medlineplus.gov/ency/article/000134.htm

Silicosis

Silicosis is a lung disease caused by breathing in (inhaling) silica dust.

Causes

Silica is a common, naturally-occurring crystal. It is found in most rock beds. Silica dust forms during mining, quarrying, tunneling, and working with certain metal ores. Silica is a main part of sand, so glass workers and sand-blasters are also exposed to silica.

Three types of silicosis occur:

- Chronic silicosis, which results from long-term exposure (more than 20 years) to low amounts of silica dust. The silica dust causes swelling in the lungs and chest lymph nodes. This disease may cause people to have trouble breathing. This is the most common form of silicosis.
- Accelerated silicosis, which occurs after exposure to larger amounts of silica over a shorter period of time (5 to 15 years). Swelling in the lungs and symptoms occur faster than in simple silicosis.
- Acute silicosis, which results from short-term exposure to very large amounts of silica. The lungs become very inflamed and can fill with fluid, causing severe shortness of breath and a low blood oxygen level.

People who work in jobs where they are exposed to silica dust are at risk. These jobs include:

- Abrasives manufacturing
- Glass manufacturing
- Mining
- Quarrying
- Road and building construction

- Sand blasting
- Stone cutting

Intense exposure to silica can cause disease within a year. But it usually takes at least 10 to 15 years of exposure before symptoms occur. Silicosis has become less common since the Occupational Safety and Health Administration (OSHA) created regulations requiring the use of protective equipment, which limits the amount of silica dust workers inhale.

Symptoms

Symptoms include:

- Cough
- Shortness of breath
- Weight loss

Exams and Tests

Your health care provider will take a medical history. You'll be asked about your jobs (past and present), hobbies, and other activities that may have exposed you to silica. The provider will also do a physical exam.

Tests to confirm the diagnosis and rule out similar diseases include:

- Chest x-ray
- Chest CT scan
- Pulmonary function tests
- Tests for tuberculosis (TB)
- Blood tests for connective tissue diseases

Treatment

There is no specific treatment for silicosis. Removing the source of silica exposure is important to prevent the disease from getting worse. Supportive treatment includes cough medicine, bronchodilators, and oxygen if needed. Antibiotics are prescribed for respiratory infections as needed.

Treatment also includes limiting exposure to irritants and quitting smoking.

People with silicosis are at high risk for developing TB. Silica is believed to interfere with the

body's immune response to the bacteria that cause TB. Skin tests to check for exposure to TB should be done regularly. Those with a positive skin test should be treated with anti-TB drugs. Any change in the appearance of the chest x-ray may be a sign of TB.

People with severe silicosis may need to have a lung transplant.

Support Groups

Joining a support group where you can meet other people with silicosis or related diseases can help you understand your disease and adapt to its treatments.

Outlook (Prognosis)

Outcome varies, depending on the amount of damage to the lungs.

Possible Complications

Silicosis can lead to the following health problems:

- Connective tissue disease, including rheumatoid arthritis, scleroderma (also called progressive systemic sclerosis), and systemic lupus erythematosus
- Lung cancer
- Progressive massive fibrosis
- Respiratory failure
- Tuberculosis

When to Contact a Medical Professional

Call your provider if you suspect that you have been exposed to silica at work and you have breathing problems. Having silicosis makes it easier for you to develop lung infections. Talk to your provider about getting the flu and pneumonia vaccines.

If you've been diagnosed with silicosis, call your provider right away if you develop a cough, shortness of breath, fever, or other signs of a lung infection, especially if you think you have the flu. Since your lungs are already damaged, it's very important to have the infection treated promptly. This will prevent breathing problems from becoming severe, as well as further damage to your lungs.

Prevention

If you work in a high-risk occupation or have a high-risk hobby, always wear a dust mask and do not smoke. You might also want to use other protection recommended by OSHA, such as a

respirator.

Alternative Names

Acute silicosis; Chronic silicosis; Accelerated silicosis; Progressive massive fibrosis; Conglomerate silicosis; Silicoproteinosis

References

Go LHT, Cohen RA. Pneumoconioses. In: Broaddus VC, Ernst JD, King TE, et al, eds. *Murray and Nadel's Textbook of Respiratory Medicine.* 7th ed. Philadelphia, PA: Elsevier; 2022:chap 101.

Tarlo SM. Occupational lung disease. In: Goldman L, Schafer AI, eds. *Goldman-Cecil Medicine.* 26th ed. Philadelphia, PA: Elsevier; 2020:chap 87.

Review Date 5/30/2021

Updated by: Denis Hadjiliadis, MD, MHS, Paul F. Harron, Jr. Associate Professor of Medicine, Pulmonary, Allergy, and Critical Care, Perelman School of Medicine, University of Pennsylvania, Philadelphia, PA. Also reviewed by David Zieve, MD, MHA, Medical Director, Brenda Conaway, Editorial Director, and the A.D.A.M. Editorial team

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From: Blankenship, Johni
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>Amendments to Material Site Ordinance
Date: Tuesday, September 6, 2022 9:03:27 AM
Attachments: Bilben Amendments (dragged) 2.pdf
Definitions Amendment 96.pdf
Decision.pdf
Standards Amendment.pdf
Delete Effect of Denial.pdf
type of CLUP Amendment 96.pdf
Tsunami Zone Amendment.pdf
Buffer Zone Amendments 06.pdf
Conditions Amendments 96.pdf

Public comment

From: Hans Bilben <catchalaska@alaska.net>
Sent: Monday, September 5, 2022 8:18 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Amendments to Material Site Ordinance

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Hi Johni,

Please forward these amendments to assembly members, legal, and planning director. Also, please plan to project attachments in sequence to the screen as I am speaking to the Committee of the Whole tomorrow. Let me know if there is any technical issues in doing that, and I will try to adjust accordingly..

Thanks,

Hans Bilben

Does Visual Impact really matter??



21.29.050 (A)(1) Buffer Zone (5 amendments)

1st amendment is to replace (1)(a) with:

a. The buffer zone for counter permits and CLUPs shall be of sufficient height, density, and setback to provide visual and noise screening of the proposed use to parcels in the vicinity as deemed appropriate by the planning commission or planning director (as applicable). Buffer requirements shall be made in consideration of and in accordance with existing uses of properties in the vicinity at the time of approval of the permit. There is no requirement to buffer the material site from uses which commence after the approval of the permit.

2nd amendment would replace 21.29.050(A)(1)(b) Existing (b) becomes (c) etc.

b. A buffer zone shall be established between the area of excavation and the parcel boundaries. The buffer zone for a Counter Permit and a Type 1 CLUP shall consist of one or any combination of the following: Fifty feet of natural vegetation, a minimum six-foot fence, a minimum six-foot earthen berm with a minimum 2/1 slope. The buffer zone for a Type 2 or a Type 3 CLUP shall consist of the following: Minimum

eight-foot fence, or fifty feet of natural vegetation and a minimum ten-foot earthen berm with a minimum 2/1 slope.

3rd amendment would change wording in existing 21.29.050(A)(1)(d) (now e.) to:

e. This requirement may [ONLY] be waived upon a finding by the planning director or planning commission, as applicable, that a lot line where the waiver is requested is [DIRECTLY ADJACENT TO] adjoining another material site or industrial use.

4th amendment is to add a new paragraph 21.29.050)A)(1)(f).

f. Geographic Information System (GIS), Photogrammetry, and LIDAR technology may be utilized in the design of the buffer zone when differing elevations exist between the proposed site and properties in the vicinity. Using this technology, line of sight profile drawings from the uppermost inhabitable level of existing properties located in the vicinity may be utilized in the determination of sufficiency of the buffer zone.

5th amendment is to add another new paragraph to 21.29.050(A)(1)(g).

g. At its discretion the planning director or planning commission, as applicable, may waive or reduce buffer requirements when screening proves to be not necessary or not feasible.

Four amendments to amend **21.29.050. Permit Conditions**

1st — Deleting **Discretionary Conditions 21.29.050(B)(1)(a).**

If GIS and LIDAR technology is utilized the buffer zone will be defined under (A)(1). Setting a maximum of 100 feet would deny protections laid out in Standards in some cases. One size does not fit all!!

***Justification for this amendment is that if the buffer zone is designed correctly by using evidence and technology there is no need for this discretionary condition. The tools, and the discretion, for the correct design are spelled out in amendments which I have written to the buffer zone language.

2nd — Amend 21.29.050(B)(1)(i) to read:

i. Upon request of the applicant [IN LIEU OF ANY ADDITIONAL BUFFER AREA THIS SUBSECTION DESIGNED TO SEPARATE THE USE OF MATERIAL SITE ACTIVITIES FROM NEIGHBORING PARCEL BOUNDARIES, AN EIGHT-FOOT-BERM ABOVE THE PREEXISTING ELEVATION MAY BE CONSTRUCTED PRIOR TO EXCAVATION, AROUND THE EXCAVATION AREA.] an earthen berm with a minimum 2:1 slope of the height determined by the planning commission under KPB 21.29.050 shall be constructed above preexisting elevation around the excavation area. If the excavation site area expands, the berm may move toward [THE PERMITTED BOUNDARY] negatively impacted properties in the vicinity

until such limits of the permitted area are exhausted. The berm must be maintained at [EIGHT-FOOT HEIGHT] the predetermined height while permitted activity is occurring. This earthen berm may be in addition to other buffer zone conditions imposed by the planning commission, or required by KPB 21.29.050.

3rd — **21.29.050(B)(6)** should be deleted. If enacted, only borough residents living at street level or below will be protected from visual, noise, and dust impacts.

4th —Amend **21.29.050(2) Discretionary Conditions** to add:

6. *Noise suppression*. At the discretion of the planning commission or planning director (as applicable) multi frequency (white noise) back-up alarms may be required on all equipment and vehicular traffic on site as a condition to help meet the noise impact standard in accordance with and in consideration of existing uses in the vicinity.

Amendment to add new section **KPB 21.29.063. Decision.**

21.29.063. Decision.

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 conditions as set forth in KPB 21.29.050, or shall disapprove applications when the conditions do not meet the mandatory standards in KPB 21.29.040. The decision shall include written findings detailing how the conditions 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. The decision shall be distributed to the parties of record before the planning commission, with a notice of right to appeal.

*** Justification is to give the Planning Commission and the Planning Director direction as they approve, modify, or disapprove an application based upon its compliance with the requirements of the ordinance as currently spelled out in KPB 21.25.050(B). This new paragraph is based upon **"21.29.055. Decision"** as taken from the material site working group document.

Amending **21.29.130 Definitions** to add **two** items:

1. **Vicinity means 1,000 horizontal feet from the parcel boundary of the proposed earth materials site**.

***Justification for this is that in the past the word "adjacent" was often used to determine the extent of protecting neighbors. An adjacent property might be as small as a quarter acre, in which case the property owners further out might be left without adequate protection. An adjacent property might be eighty acres which leaves the applicant at risk because of the planning commission's interpretation of the ordinance. By having a stated distance it protects both the applicant, and neighboring property owners. The material site working group defined "vicinity" as the notification area meaning 1/2 mile or 2,640 feet. This is a compromise distance.

2. **Earthen Berm means a berm constructed above the preexisting elevation, consisting of topsoil or aggregate, suitable for revegetation, not to contain more than 10% organic material, and maintaining a 2:1 slope on both sides.**

***Justification for this is to aid the compliance officer in determining if berms are constructed in a fashion that will meet the standards. A pile of brush with a couple inches of dirt on top is not an adequate protection for properties in the vicinity. A properly constructed berm could provide sufficient noise, visual, and some dust screening for the duration of the project, plus it would aid in the reclamation process.

Section **21.29.065 Effect of permit denial** amended by **DELETION** of entire section.

***Justification: There is currently a process in place that allows either party to **appeal** a decision that they feel is unjust. This process may proceed all the way to the Alaska Supreme Court and the final decision rendered, whether it is approval or denial of a permit, should be adhered to. To subject neighboring property owners and KPB to the costs, both in dollars and time spent on a first appeal, only to restart the cycle again in one year or less is ludicrous. In the 16 year history of the current ordinance there has never been a denial that stood up on appeal—**ZERO**—so just who is this written for? Certainly not for the benefit of the vast majority of Borough residents!

Including this section in the ordinance undermines the credibility of the planning commission, the planning director, the entire appeal process, and is the ultimate slap in the face to the residents of this borough who may have successfully (and legally) defended their neighborhood as spelled out in the ordinance.

If the Assembly really thinks that a reapplication is warranted, then the rule for denial should be the same as the rule for approval. If approved a counter permit is good for two years and a CLUP for five years. If denied a counter permit reapplication should not be allowed for two years, and for a CLUP no reapplication for five years. Any reapplication even then should only be allowed if the applicant can prove that new evidence or circumstances exist that were not available or present with the first application.

Amend **21.29.040 Standards for sand , gravel, or material sites.** **Two amendments**:

1st— In **21.29.040(A)** rewrite (A) to include visual impact and to delete reference to street-level screening.

A. These material site regulations are intended to protect against aquifer disturbance, road damage, physical damage to adjacent properties, dust, noise, visual, and other impacts of earth materials extraction to properties in the vicinity through setbacks and buffer zones. Prior to granting a counter permit or a conditional land use permit under this chapter, the planning director or planning commission, as applicable, must make the following findings:

*** Justification would be that by only requiring street level visual screening this ordinance will eliminate protections for a segment of the borough population—again going back to the one-size-fits-all model that didn't work in the past.

2nd— Include the omitted MatSu standard #2 into **21.29.040**.

2. That the use will preserve the value, spirit, character, and integrity of the surrounding area;

***Justificationis that this standard (currently in the MarSu ordinance) helps to define just where a material site should and/or should not be located. It is critical if the ordinance is really meant to comply with the Comprehensive Plan.

Amend **21.29.050(A)(2) Permit Conditions applicable to all permits** to read:

2. Water source separation. (New paragraph after letter c.)

d. All permits shall be issued with a condition which prohibits any material extraction within 500 linear feet of any existing private well or water source when located within the boundaries of a mapped tsunami hazard zone

***Justification is to include mapped tsunami Hazard Zones as defined by Alaska DNR, in partnership with the Alaska Earthquake Center and the Alaska Division of Homeland Security and Emergency Management. There are seven such zones in the Kenai Borough. Any excavation in a tsunami hazard zone demands scrutiny because of the potential to turn a material site into a saltwater lake thereby contaminating any wells or water sources in that zone.

1st Amend **21.29.020(A) Types of permits available** to return Counter permit to current 2.5 acre size, and to retain new language concerning two year time period with one 12 month extension.

***Justification: To allow a material site greater than 2.5 acres that would have multiple negative impacts to properties in the vicinity without any prior public input is a great disservice to the residents of the borough and not in accordance with the Comprehensive Plan.

2nd Amend **21.29.020(B)(1)(2)(3)** to read:

Type 1 CLUP. Type 2 CLUP. Type 3 CLUP.

****Justification: Makes for cleaner reference in remainder of ordinance.

3rd Amend **21.29.020(B)(1)** to read:

1. Type 1 CLUP. Earth Materials Extraction with Restricted Processing CLUP. An Earth Materials Extraction with Restricted Processing CLUP is required for any material extraction which disturbs 2.5 or more cumulative acres. Processing is restricted to one portable two deck screen capable of screening or classifying material, limited to a maximum of 500 cubic yards per day. Extraction within four feet of the seasonal high-water table is prohibited under this permit. The conditions set out in KPB 21.29.050 and .055 are applicable to this type of CLUP.

4th Amend **21.29.020(B)(2)** to add language dealing with water-table separation.

2. ...or crushing activities. Extraction or processing within four feet of the seasonal high-water table is prohibited under this permit. The conditions set forth....

5th Amend the The Type 3 CLUP **21.29.020(B)(3) (Earth Materials Extraction within Water Table)** to include processing in its language. Why wouldn't it??????

From: Blankenship, Johni
To: Warner, Avery
Subject: FW: New Public Comment to Assembly Members
Date: Tuesday, September 6, 2022 6:10:37 PM

From: Kenai Peninsula Borough <webmaster@borough.kenai.ak.us>
Sent: Tuesday, September 6, 2022 5:46 PM
To: BoroughAssembly <Borough-Assembly@kpb.us>; Mayor's Department <MayorDepartmental@kpb.us>
Subject: New Public Comment to Assembly Members

Your Name: Elena Staab

Your Email: Elena-joy@hotmail.com

Subject: Ordinance 2022-36

Message:

To the KPB Assembly:
This is to show my support for Ordinance 2022-36. As a property owner that is adjacent to 2 gravel pits that have grandfather rights (Kobuk & Big Eddy/Spruce St. and Greenridge St & Joplin), I am acutely affected by their unregulated operations. I have experienced flooding multiple times in the last 10 years due to their uncontrolled release of water and the absence of ditches and driveway culverts on my road. I live on Greenridge Street.
After reviewing the ordinance, I noticed the lack of a contingency plan for catastrophic failure of their coffer dams. This is my biggest fear, that a wall of water from those dams will make my home unlivable and render me homeless. I have flood insurance, but that only covers flooding from the river in an "act of god" happenstance.
When these gravel pits were granted grandfather rights this was a rural area, only 3 people homesteading. The current and coming population density calls for re-evaluation and an SWPP at the very least. I have discussed these things with my neighbors and we are all in agreement with your ordinance, plus upgrades to our road for flood management are necessary. I appreciate your time and consideration.
Sincerely,
Elena J. Staab

Kenai Peninsula Borough Assembly
144 N. Binkley Street,
Soldotna, Alaska 99669

Re: Comments Regarding Proposed KPB Ordinance 2022-36

Dear Assembly Members:

We are writing to you regarding the new proposed Ordinance 2022-36, amending KPB Chapter 21.25 and Chapter 21.29. There are certain truths related to gravel pits:

1) No one really wants one as a neighbor
2) They are for the most part noisy and dusty
3) They have a negative visual impact to surrounding homes and neighborhoods
4) We all need gravel and sand for our lives we enjoy on the Peninsula
5) We all want our families and children to be safe from gravel pit operations
6) We all know, to be safe, we need reasonable Borough regulations that protect both the public welfare while helping the gravel industry sustain their businesses.
7) We all want gravel and sand at a fair price

The key takeaway from these truths is, "reasonable Borough regulations" for gravel pit operations.

The new proposed Ordinance 2022-36 does move us in the right direction, however, some of the above truths we can agree on have been overlooked or not given the weight they should have.

For example, 21.29.015 (C) now allows a Counter Permit to be 10 acres. A square 10 acre gravel pit would be about 14, 150 foot square residential lots. By any standard, this would be a huge gravel pit. It should be left at 2.5 acres. This new regulation also strips out any public safeguards from all the concerns listed in 1) thru 3) above. Delete this amended version and add back the current language under 21.29.020 (B). But add that Counter Permits must meet public notice requirements of 21.25.060. Also, delete exception given to public notice for Counter Permits under this section.

The public should have the right to examine any proposed gravel pit in their area and be able to discuss it with the Planning Commission.

In the new regs 21.29.040 "Standards for sand, gravel, or material sites", the new amendment is striped of any meaningful language that would allow the Planning Commission to exert their authority in denying a gravel permit. In fact, under this section, and others similar, the Planning Commission will almost have to approve any and all gravel pit applications. The new amendment as written, fails to address most of the above truths we all share about the need for the public's protections from gravel pit operations. The current, existing section of 21.29.040 in its entirety should be left in place as written.

Regarding item 3) above, about visual impact, the amendment 21.29.040 has set the limit of visual impact to only "street-level visual screening". This restriction of the height of screening to protect properties surrounding a proposed gravel pit does not take into account screening for two story homes, much less, homes on a hill side above a proposed gravel pit. Delete "street-level screening" from this section. And, address visual screening by adding back the current standards in the existing regulations under 21.29.040 (A) (1 thru 6).

Under item. 2) above, regarding dust from gravel pit operations, Eileen Sheridan will be offering an Amendment to 21.29.040 related to dust from quartz and silica that is found in all types of rock and sand mined on the Kenai Peninsula. I took a shovelful of gravel that came from a known gravel pit source in Anchor Point and found it laced with minute particles of silica. The winds pick up the fine silica particles from gravel pit operations and they are blown into surrounding areas. Silica is a known cause of silicosis, respiratory illnesses, cancer and death for humans if breathed in for long periods of time. I urge you all to listen to Eileen's presentation and take time to read the material she's gathered on this important subject. Please pay particular attention to the table on Page 3 of "Crystalline Silica Dust-The Invisible Killer" section. It shows that small silica dust, small enough to enter our immune system can travel 4.5 miles in a 6.2 mph wind. Most gravel people don't seem to understand the long term effects of working around gravel operations and fail to take any precautions themselves. OSHA has issued strong warnings and advisories for people who work around silica dust. Its time we take notice too, and adjust our materials regulations to protect our residents and the public.

There's much more that needs to be addressed in the proposed amendments and we hope to have another chance to do so. This is a big deal for not only the residents and public but very important for our gravel producing neighbors on the Peninsula as well. So, we hope you will take time to weigh all the pros and cons carefully to arrive at fair and workable regulations for us all.

Lastly, we want to encourage you to carefully review and act on Hans Bilben's amendments he has submitted. Hans is a very honest, fair-minded man. He has been working closely with Ed Martin, one of the gravel interest leaders to try to work out language in the proposed new amendments that would work for all of us, both residents and the pubic, and the folks with gravel interests. We support Mr. Bilben's amendments.

Thank you for considering our views.

Gary and Eileen Sheridan

PO Box 661,
Anchor Point, Alaska 99556

KPB Ord. 2022-36

From:	Blankenship, Johni
To:	Warner, Avery
Subject:	FW: <EXTERNAL-SENDER>Cline response - Kenai Peninsula Borough Ordinance 2022-36
Date:	Monday, September 12, 2022 5:00:09 PM

Public comment on Material Site Ordinance

From: Ann Cline <anndotcalm@gmail.com>
Sent: Monday, September 12, 2022 4:48 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Cc: Hans and Jeanne Bilben <Catchalaska@alaska.net>
Subject: <EXTERNAL-SENDER>Cline response - Kenai Peninsula Borough Ordinance 2022-36

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Good afternoon,

At last week's KPB Assembly meeting, the ordinance regarding CLUPs was discussed. After I spoke at the meeting, I gave my name and phone number to you and several of the Assembly to offer my assistance in the ordinance's revision. Johni, please forward this to all Assembly members and Planning Department.

I have several clarifying points which hopefully will result in a clear, easy to follow document to assist landowners and the public regarding land use and material site permits with protections. I am using the amended Ordinance 2022-36 with the new text. Please let me know if I may be of further assistance.

[1]. I was unable to locate where the ordinance stipulates how many acres can be permitted per parcel. What is to prevent a landowner from having 1 acre permitted, another acre permitted a year later, another acre permitted the following year, and so on till he/she has excavated all the acres they would like? Should the ordinance stipulate 1 acre **per parcel**? If the Borough allows short platting, then that's another loophole that needs to be addressed. Otherwise, a landowner could shortplatt his/her parcel into 1 acre parcels and permit them individually.

[2] I don't see the necessity of KPB offering a Counter Permit. It seems to me that a CLUP is sufficient. I didn't see any difference In the 21.29.020 A. Counter Permit description. What am I missing?

[3]. Under 21.29.020 B. Conditional Land Use Permit, 1. states "an Earth Materials Extraction CLUP is required for any material extraction which disturbs 10 or more cumulative acres." My Anchor Point neighbors and I respectfully exhort you to replace the number 10 with 1 to read:

"an Earth Materials Extraction CLUP is required for any material extraction which disturbs more than 1 acre."

[4] I was unable to find the requirements of a public hearing for any CLUP request in excess of 1 acre. A public hearing is very important to ensure that affected Kenai Peninsula Borough residents have an

opportunity to inform planners and stakeholders of concerns regarding health, safety, and welfare of the surrounding residents, tourists, and business owners.

[5] Regarding 21.29.030. Application procedure A:
Delete “a counter permit or” if you determine that only a CLUP is sufficient.

[6] Regarding 21.29.040. A:
Delete “street level” and replace with “visual screening from all affected surrounding areas within 1/2 mile.”

[7] Regarding 21.29.060 - Reclamation plan:
Asking for a bonding requirement of $750 per acre for reclamation is completely unrealistic. Just to bring in the equipment necessary to do the work far exceeds that price! I suggest you speak with local excavators to obtain an accurate bid on the actual cost to reclaim property and proceed. Remember that unscrupulous landowners will do the least of your demands so you must be diligent and realistic with your legal requirements.

[8] Regarding 21.29.065 A:
A can be deleted if you decide to remove counter permits from the ordinance.

The most important aspect to any ordinance is whether or not it will be enforced. If there are no real consequences for disobedience, then the ordinance is moot. If you are concerned that the KPB planners will have a difficult time bringing landowners into legal compliance with ordinances, then it’s imperative that you change your wording from “may” to “must” in your ordinance.

Part of the KPB Planning and Assembly personnel job descriptions should include making a physical visit to the locations of the permits under review. For example, our Anchor Point neighbors have no doubt that if the Assembly and borough Planners had come to our neighborhood to witness for themselves, our lawsuit would have been unnecessary. The Beachcombers LLC gravel pit was/is in full view of, and carcinogenic dust exposure to, our surrounding hillside homes.

As I expressed at the open KPB meeting last week, I believe we all need to be able to sleep each night knowing that we have been honorable and have made righteous decisions not only for our neighbors, businesses, and ourselves but also for **posterity.** We will become dust, but our actions should carry lasting goodness to those we leave behind.

Respectfully,

Ann Cline
34926 Danver
PO Box 121
Anchor Point, AK. 99556
(425) 449-3540

Warner, Avery

From: Blankenship, Johni
Sent: Monday, October 3, 2022 9:55 AM
To: Warner, Avery
Cc: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>Gravel pits- to be forwarded, thanks

---

From: laura sievert <laurasievert@hotmail.com>
Sent: Monday, September 26, 2022 8:03 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Gravel pits- to be forwarded, thanks

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

To the Borough Assembly:

I admit that I haven't been keeping up on Assembly progress on regulating gravel pits.

Listening to Nikiski candidates on the KDLL assembly candidate forum tonight, I gather that most residents have concerns about gravel pits because of the normal nuisances and lowering of adjacent property values, which I agree are problems. However, my primary concern (my property value is forever lowered) is the way that gravel pit operators are trusted to run their pits after they have been approved. The two operators that surround my property - Great Northern and QAP- have bulldozed a salmon stream, stacked up old asphalt on shorelines, dumped derelict machinery, run a batch plant without a permit, and otherwise ignored what is allowed by the Borough.

Below, find my previous letter. I still have the same concerns, which are not being addressed when you only look at residents' common concerns like dust, jake brakes, and unsightly views. My concerns are violations that have repercussions that will last decades and beyond. I am not asking you to address my two gravel pit problems- since it's too late- only that you consider the future.

Thank you - Laura Sievert

I live on Beaver Loop, home to several gravel pits. We live between the Quality Asphalt Pit and the Great Northern pit. Both were old gravel pits that came back into production for the Spur Highway project.

As part of your discussion going forward, I beg you to consider two things: first, how to enforce the rules that pit operators are required to follow, new rules as well as those already in effect such as the Anadromous Stream Ordinance. Also, what is to be the relationship between city and Borough regulations regarding gravel pits? Apparently the regulations vary.

Our experience with Quality Asphalt & Paving in 2020 is an example of what can go wrong. Since 2020 we have tried to get the Borough and the City of Kenai to fix QAP's violation of the Anadromous Stream Ordinance in a stream that originates on our property and then runs through their gravel pit and into the Kenai River.

Just prior to the violation, we had been working with a former Borough biologist who studied our property and made some suggestions as to how we might enhance the coho run up our stream. This was part of a project he was working on to help property owners enhance privately owned habitat.

While extracting gravel for the Spur highway project, QAP bulldozed the stream on their property, cut all trees and vegetation along the bank, built two roads over the stream, and installed two culverts. I found out later that the City of Kenai knew of this plan and approved it. This was apparently due to a difference between City and Borough regulations.

I objected- after the fact- but the repercussions were slight. QAP denied knowing it was an anadromous stream despite having installed an expensive fish culvert on that very stream a couple of hundred yards downstream, under Beaver Loop road.

The biologist who had been helping us negotiated two ways that QAP could begin to make up for damaging the stream: planting trees (which they did- maybe 20 alders, which in our lifetimes will not shade the stream), and removing an old culvert further upstream on their property. Too little, too late. Photo of clear cut stream:



There's more. QAP dumped broken-up used approach asphalt in their pit, near the stream- I believe it is still there. They installed a batch plant in the gravel pit (gone now). There was no permitting or public hearing for that plant. On the other side of our property, Great Northern pushed dirt into the pond (right at our property line) that is the origin of the
anadromous stream I refer to. Photo of asphalt dumped in the QAP pit:



Rules and regulations are good, but please consider if and how they will be enforced.

No one is watching these pits. We got the Kenai City planner out a couple of times, first on Day One, when QAP clear-cut the 200 foot buffer zones around the pit, a violation of their conditional use permit. No repercussions- the trees are gone, nothing to be done.

I could go on. I can send more photos How will you make sure pit operators follow the rules? How do they make amends when they violate the rules? Perhaps by posting large bonds? No one can stand out there and monitor them, and the damage can happen really fast. The cutting of the buffer took a few hours. And money doesn't bring back our streams, salmon or buffer zones.

Thanks for your work on this. We need gravel, but I hope you can balance that need with a consideration for the long term health of our water, people, land and wildlife.

Laura Sievert
3329 Beaver Loop, Kenai

Warner, Avery 2022-36

From: Blankenship, Johni
Sent: Thursday, October 6, 2022 8:47 AM
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>gravel pit

Public comment on O2022-36

-----Original Message-----
From: Supercub Inalaska <sw69313@yahoo.com>
Sent: Wednesday, October 5, 2022 4:56 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>gravel pit

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Hello,
I just spoke with Ryan Raidmae on the phone.
This email is how i am showing support
FOR
the proposed code rewrite of the conditional land use dewatered bar material site permits.

I live within 1/2 mile of several pits in seldovia alaska

i may be reached

loren rhyeer
2837 glacier street
anc ak 99508 in the winter.

907-227-8480
for comment or confirmation.

thank you

loren

Warner, Avery 2022-36

From: Blankenship, Johni
Sent: Monday, October 10, 2022 2:06 PM
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>Public Comment - Conditional Land Use Permits, Material Site Permits and Fees regarding applications, conditions, and Procedures

Ordinance 2022-36 public comment

From: Greg Barclay <gbearclaw52@gmail.com>
Sent: Sunday, October 9, 2022 6:21 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Public Comment - Conditional Land Use Permits, Material Site Permits and Fees regarding applications, conditions, and Procedures

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Dear Madam Clerk,

We are not opposed to gravel pits as we realize they are part of building construction and keeping roads safe. We live in Lakewood Subdivision, at Mile 86 of the Sterling Hwy, across the road from an active gravel pit and do notice a lot more noise from the equipment and material being moved in the summer season. Would more pavement close to intersections help or some type of dust treatment applied on the access road?

There is quite an increase in dust in the area, our yards and houses during the construction season from the gravel pit. Is it possible for some type of dust prevention such as water application in certain gravel pit activities?

We like to see our community to be safe and also grow.

Thank you,

Greg and Linda Barclay
38403 Breezewood Dr.
Sterling, AK 99672
907-262-1400

From: Blankenship, Johni
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>material assembly site meeting, to be held October 25th, 2022
Date: Tuesday, October 11, 2022 12:19:47 PM

From: patricia gross <plgross293@gmail.com>
Sent: Tuesday, October 11, 2022 12:14 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>material assembly site meeting, to be held October 25th, 2022

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

To whom this concerns;

I am a resident close to a conditional land use area. I am against you renewing their permit, because they have to drive thru a residential area. The roads are maintained by the subdivision residents, in order to get to the main road, or go partway down the subdivision road onto a state road which the heavy trucks tear up too, then to the main road. There are several small children that play in or close to the road in the neighborhood. Thank You .

Pat Gross

Warner, Avery 2022-36

From: Blankenship, Johni
Sent: Tuesday, October 11, 2022 12:24 PM
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>Public Hearing 10/25/22

From: D Garske <ddgarske@gmail.com>
Sent: Tuesday, October 11, 2022 12:24 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Public Hearing 10/25/22

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Hi Johnny!
My husband and I can't make the scheduled KPB Material Site Assembly Meeting, so please consider this our written statement in regards to the gravel pits near our house:

We don't have any issues with gravel pits in general, however, when people think they can trespass and use them to sight in or practice shooting their pistols and/or rifles, especially late at night, we tend to bristle. Perhaps a security provision could be added to future permits. Must have locking gates, or something similar.

Thank you for your time,
Diane & Hugh Garske

From: Blankenship, Johni
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>Kenai Peninsula Borough Material Site Assembly Conditional Land Use
Date: Friday, October 14, 2022 10:43:16 AM

-----Original Message-----
From: toni.swearingen@gmail.com <toni.swearingen@gmail.com>
Sent: Friday, October 14, 2022 10:40 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Kenai Peninsula Borough Material Site Assembly Conditional Land Use

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

To Assembly Clerk:
I would like at make a comment concerning the Conditional Land Permits, regarding Conditions and Procedures.
We own a house in Soldotna, 45037 Big Eddy Rd on the corner of Kobuk and Big Eddy roads. A huge gravel pit is on two sides of our property. We would like to be assured that they will not be able to disturb our well water level or they quality of our water. Currently we have very clear and delightful water.
We want make sure they can not disturb our well. Please include protection of Quality and Quantity to the land use permits.

Thank you for your attention to this matter.
Sincerely,
Toni Swearingen

Toni Swearingen
3201 Rosalind Loop
Anchorage, AK 99607
907-242-3367

From: Blankenship, Johni
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>2022-36 changes for material sites
Date: Monday, October 17, 2022 9:06:05 AM

Public comment

From: mamabear Roderick <ak_mamabear@yahoo.com>
Sent: Monday, October 17, 2022 7:37 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>2022-36 changes for material sites

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I am a small business owner in Anchor Point, Alaska. I have owned R/C Land Improvement since 1993. Three years ago, my husband Marc Roderick was killed in a trucking accident, and I was forced to down-size the business in order to keep my business running and for me to support my family.
I went from personal loss, to COVID, to the current struggling economy and now you want to force changes in a short time frame.

I have many concerns and questions regarding the proposed changes, here are a few:

Why are you not allowing the PEU status to transfer from landowner to landowner? This devalues my assets and hurts my small businesses value. Do I get compensation?

It is not economically feasible for small business to be forced to work PEU pits every year. Could there is a better solution? Why not 3 or 5 years?

Are you going to pay for fixing my buffer zones? They were made according to the rules at the time.

Digging in water tables, now I would have to put in monitoring wells and pay surveyors and others for services. The expense would put me out of business or make my prices so high customers will buy from someone else. I feel like you're trying to kill the small business operators and reduce the number of active gravel pits. What percentage is KPB going to be paying for the monitoring wells?

Wording is vague and confusing, "to minimize"," in the vicinity"….who then makes the call on what that means? MSHA is already vague, and every inspector has their own opinion on what the regulations mean. Please don't make it worse. Clarify your statement in exact terms so there will be no disputes later. This shouldn't be left up for interpretation.

If I understand correctly, the new changes will go into effect in a few years, for me that is not enough time, I am in the middle of contracts with set prices. I don't have the budget to switch to the new changes in just a few years. Can we work on the timeline in which this will take effect?

Why would I need to pay for fixing public roads? Truckers are already taxed high, registration fees by the state, 2290 taxes by the feds, isn't that supposed to be for road repairs? Small business can't be expected to take on all the burden for public roads.
I do not support the changes. I do not support you changing my PEU status to a permit.

Thank you for your time,
Shanna Roderick

owner of R/C Land Improvement

Warner, Avery 2022-32

From: Blankenship, Johni
Sent: Monday, October 24, 2022 10:38 AM
To: Warner, Avery
Subject: Fwd: <EXTERNAL-SENDER>Gravel pit Ordinance

Sent from my iPhone

Begin forwarded message:

From: Janet Simons <ibjanetsimons@gmail.com>
Date: October 24, 2022 at 3:29:34 AM AKDT
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Gravel pit Ordinance

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Good morning!

I strongly recommend that ALL gravel pit permits be reviewed every 5 years and the owner be required to justify it's renewal and that the site location is suitable for a commercial business and compatible with the surrounding neighborhood. It must be in full compliance with all applicable state and borough ordnance's concerning public safety,noise,operating hours,dust control and road maintenance on roads used to access the sight. They should also be in full compliance with OSHA and the EPA and ensure they do not effect ground water levels to adjacent properties.

Thank you,
Janet Simons

Sent from my iPhone

Warner, Avery 2022-36

From: Blankenship, Johni
Sent: Monday, October 24, 2022 10:38 AM
To: Warner, Avery
Subject: Fwd: <EXTERNAL-SENDER>Gravel Pit Ordnance Update

Sent from my iPhone

Begin forwarded message:

> **From:** David Weber <weber@xyz.net>
> **Date:** October 24, 2022 at 5:55:57 AM AKDT
> **To:** G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
> **Subject: <EXTERNAL-SENDER>Gravel Pit Ordnance Update**
>
> CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.
>
> Having lived in Upper Deitz Estates for 20 + years and having endured a active sand pit in our subdivision in past years I highly recommend that the borough adopt a plan that reviews all permits every 5 years and revokes permits that are not actively used and not in full compliance with all State,Borough, E P A and OSHA regulations.
>
> David Weber
> 58875 Deitz Ln
> Homer Ak 99603
> 907 299 2204
> Sent from my iPhone

2022-36

Deborah Anderson
41140 China Poot St
Homer, AK 99603
(414)335-9396
paragondeb@gmail.com

October 21, 2022

Kenai Peninsula Borough

Re: Conditional Land Use Permits, Material Site Permits & Fees regarding Applications, Conditions, and Procedures

The gravel pit at the top of our road is inactive and has been for at least 10 years well past the 365-day requirement. When the gravel pit was last active, we did not have as many houses in our subdivision as we do now (28 out of 40 lots); or as many children and grandchildren in the neighborhood either. We do **not** have a Borough maintained roads through our subdivision, they are owner maintained from road dues collected with matched grants from the Borough. If the gravel pit at the top of the road would start operating again like it did back at the beginning stages of our subdivision, our road as we know it now would not survive the brutal abuse of the constant traffic of trucks all day, every day. Your notice of decision seems to be for property owners within 100 ft of pit operation, however, trucks impact every property owner in our subdivision (there is only one way in and out on our roads not maintained by the Borough - China Poot St & Deitz Lane). I want to see clear and concise rules for how road groups on roads not maintained by the Borough would be able recover costs incurred from the Gravel Pit, or would the Gravel Pit be responsible for the maintenance directly? If this gravel pit would reopen, is the current owner responsible for reclamation of past problems whether they were responsible at the time of damage?

I strongly recommend that ALL gravel pit permits be reviewed every 5 years and the owner be required to justify its renewal and that the site location is suitable for a commercial business and compatible with the surrounding neighborhood. The location should be in full compliance with all applicable state and borough ordnance's concerning public safety, noise (gravel pit & trucking/J-braking), operating hours, use of rock crusher, dust control (in the gravel pit, trucking) and road maintenance on roads used to access the site. They should also be in full compliance with OSHA and the EPA and ensure they do not affect ground water levels/tables to adjacent properties. In our case, the gravel pit sits at the top of China Poot, above all the other lots, on a downward sloping hill. If they were to disrupt the water table by their operation, that would affect everyone downhill that has water rights. Please inform me of any future meeting on this subject!

Sincerely,

Deborah Anderson
Property Owner

Warner, Avery

From: Blankenship, Johni
Sent: Monday, October 24, 2022 11:44 AM
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>gravel pit rules

From: Dan Anderson <paragondan58@gmail.com>
Sent: Sunday, October 23, 2022 2:22 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>gravel pit rules

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This note comes to you about how gravel pit rules and how they affect my neighborhood. I live on China Poot Street in Homer. At the top of China Poot Street a once operated gravel pit sits. When I built on my property 15 years ago, which is situated down hill from the pit, I remember loaded trucks rumbling down the road only to return empty to repeat over again. At the time I was building there were several lot's along the uphill road that weren't improved at the time, they since have had improvements on them. Our neighborhood has a very active road group that maintains China Poot Street. This is accomplished with road dues and grant's. Several of the neighbors have equipment that jump in when a poor spot in the road appears, which isn't very often any more as the neighborhood as a whole over time made China Poot Street a very good gravel road, with care, time and money. All the meetings/conversations about China Poot Street have borne fruit, in the way of a good road. Over the years several of the neighbors down hill from the pit have installed high tunnel greenhouses. Most use some sort of ground water collection system to water their greenhouses. Personally, we have filled long ago for our water rights, along with most if not all of the others. A few like myself have dug out holding ponds to retain water to supply our greenhouses, during the dry months. I even put in a cistern tank as backup. One of the fears is that, if the pit was to reactivate, the flow of the groundwater may be disrupted.
With the aforementioned snapshot of our China Poot neighborhood while considering anything with the said pit at the top of our road. Also keep in focus the impact of heavy repeated loads on our road, the noise and dust it creates, and a posible disruption of the water flow that the greenhouses desperately rely on. Our personal greenhouse produces many meals of healthy vegetables and fruits. Not only for my family but for others that are less fortunate than our family. During harvest times we encourage several other families to come and pick what they can use, some I know for sure don't have the capital to purchase these items in the store, or the time and means to grow thier own. Thank You Ahead of Time for taking time to read this and most importantly keeping the above in the discussion about any future decisions reguarding the gravel pit at the top of China Poot Street.

Dan Anderson
41140 China Poot Street
Homer, Alaska 99603
(414)788-5197

2022 - 36

From: curt wilcox <curtwilcox@hotmail.com>
Sent: Saturday, October 22, 2022 11:52 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us> **Subject:** <EXTERNAL-SENDER>Gravel pit ordinance comments

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To whom it concerns:
I'd like to title this comment "My next door neighbor, a gravel pit."
In the summer of 2019 the construction company QAP took possession of the old Cone gravel pit next door to my residence on Beaver Loop. The first activity to announce their presence was to dig up the buffer zone. The previous owner Chester Cone had left the buffer zone intact and QAP saw this as an opportunity to mine some easy gravel. I alerted the city of Kenai to no avail. I have the correspondence via email available.

Since there was no enforcement of the city code this gravel pit operator apparently thought anything goes within the city and Borough of Kenai. They cleared the anadromous stream on their property and placed culverts to construct driveways to access the asphalt batch plant they didn't have a special use permit for. They hauled old asphalt from their road project and buried it with other debris that has drainage into the Kenai River. I have photos of this all and have contacted the city and borough on several occasions asking for enforcement to no avail. I thinK QAP was eventually fined $200 and had to plant some alders along the anadromous stream they cleared. I would have thought operating an asphalt batch plant without a special use permit would have had some consequences. I would like to say to those proposing new gravel pit ordinances is there has to be enforcement of those ordinances or you'll get a neighbor just like mine. Mine seems to say we'll do what we want and in our location anyway, we don't care about the Kenai River as well.
Curt Wilcox 3329 Beaver Loop Rd, Kenai, AK



CIRI

October 24, 2022

Johni Blankenship
Kenai Peninsula Borough Clerk
144 N. Binkley Street
Soldotna, Alaska, 99669

RE: Public Comment on Proposed Ordinance 2022-36 Amending KPB Chapter 21.25 and KPB Chapter 21.29 Regarding Conditional Use Permits and Material Site Permits

To Whom it May Concern:

Cook Inlet Region, Inc. (CIRI) is writing to provide comments regarding Proposed Ordinance 2022-36 (PO 2022-36) which repeals and rewrites Kenai Peninsula Borough Code of Ordinances chapters 21.25 and 21.29 regarding conditional land use permits and material site permits. CIRI is an Alaska Native corporation which owns over 300,000 acres of land within the Kenai Peninsula Borough (KPB), including a significant amount of sand and gravel resources. CIRI works with local sand and gravel operators to responsibly develop these resources, and currently has two active sand and gravel pits within the KPB.

Many of CIRI's sand and gravel operators are small, local businesses which often implement a flexible business model that involves rotating between multiple sand and gravel pits based on project demand. Because each gravel site contains unique grades of material, operators need to be able to cycle between sites in order meet the specific demands of each project. Given this business model and the operators' need for flexibility, CIRI is concerned that the 365-day discontinuance period for prior existing uses contained in PO 2022-36 is too short. CIRI believes that PO 2022-36 should be amended to extend the discontinuance period to five years, which would match the length of a CLUP.

CIRI understands and appreciates KPB's interest in updating its process for conditional land use and material site permits, as well as its efforts to ensure the implementation of appropriate environmental and monitoring requirements. However, to the extent that PO 2022-36 imposes additional regulatory and compliance costs on sand and gravel operations, that cost will be passed through to the end user of the resources. This will result in higher costs for construction projects within the KPB, including public projects like road construction and maintenance. In addition, an extended permitting timeline may impact the timely completion of projects that are already restricted by short construction windows.

P.O. Box 93330, Anchorage, AK 99509-3330 • P: 907-274-8638 • F: 907-279-8836 • www.ciri.com

Thank you for your consideration and the opportunity to provide comments on PO 2022-36.

Cook Inlet Region, Inc.

S. Settle

Suzanne Settle
Vice President, Energy, Land and Resources

October 23, 2022

Upper Dietz Road Group

41140 China Poot St., Homer AK 99603

Kenai Peninsula Borough

assemblyclerk@kpb.us

RE: 21.29.120 Proposed changes

KPB Council & Staff,

Thank you Kenai Peninsula Borough professionals, who are updating standards and practices across the Borough on many issues. This letter is addressing gravel pit permitting, monitoring, reclamation and all phases of Conditional Land Use Permits -CLUPs or over the counter permitting for gravel pits.

Upper Dietz Road Group was formed by private land owners for the purpose of maintaining the roads in our neighborhood which are not Borough-maintained directly, but rather by using matching road grants to road groups funneled through, and administered by Kachemak City. Because we directly pay for our road maintenance and coordinate as neighbors to contract services, we see the impact that commercial use had on our roads.

The history of our steep street includes a gravel pit operation at the top of China Poot Street that has not been operating for many years. When this gravel pit was in use, it created considerable disruption to the neighborhood which included, but was not limited to Jake Braking noise, operation noise, dust issues, child safety concerns and damage to our roads due to weight of the trucks up and down the road. We are also concerned about our water table and surface water issues that a gravel pit operation is in danger of creating.

It seems that these are some of the issues being addressed by the current process to update KPB ordinances and rules. Please be sure to include concise language that requires all projects are in compliance with OSHA and EPA standards relating to protection of all water. Also protect all adjacent property individual landowner rights including noise and road damage concerns. CLUP's need to be re-evaluated every five years to be sure they are operating within standards and subject to new standards when appropriate. Reclamation is an important issue for thorough rules and oversight.

Sincerely submitted by Upper Dietz Road Group,

Kary Adkins 58835 Buds Ct

Dan & Deborah Anderson 41140 China Poot St

Eric & Tracie Brown 41145 China Poot St

Thomas Brown Home & Lot

Jay & Amanda Cherok 58865 Deitz Ln

Matt Dickerson 40852 China Poot St

Mark Dickson & Ann Oberlitner 58987 Deitz Ln

Mannfried Funk & Marcia Kuszmaul 40963 China Poot St

Ty & Christie Gates 41102 China Poot St

Jaime A. Hernandez & Rhema Smith 40656 China Poot St

Judith James 40951 China Poot St.

Ron & Sherry Johnson 40667 China Poot St

Daniel & Susan LaPlant 40941 China Poot St

Anthony Maurer 40921 China Poot St

Neil McArthur 58953 Deitz Ln

Rodney & Sandee McLay 40872 China Poot St

Ka Mulky 40657 China Poot St

Jackie Norvell 40989 China Poot St

Ben Park & Mary Tricamo-Park 40944 China Poot St

Sherman Peterson 40871 China Poot St

Larry & Kathi Rappuhn 58850 Deitz Ln

Dennis & Sandy Rollins 40670 China Poot St

John & Cynthia Shankel Lot Owner

Janet & Les Simons 41272 China Poot St

Craig Sutphin 41089 China Poot St

Burl & Kristen Tonga 58825 Deitz Ln

Charlie & Beth Trowbridge 40710 China Poot St

Dave & Melanie Webb 40762 China Poot St

Dave & Maxine Weber 58875 Dietz Ln

Warner, Avery

From: Blankenship, Johni
Sent: Monday, October 24, 2022 1:20 PM
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>Re: proposed gravel pit ordnance changes

From: Deborah Anderson <paragondeb@gmail.com>
Sent: Monday, October 24, 2022 1:14 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Re: proposed gravel pit ordnance changes

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Deborah Anderson
41140 China Poot St
Homer, AK 99603
(414)335-9396

paragondeb@gmail.com

October 21, 2022

Kenai Peninsula Borough
Re: Conditional Land Use Permits, Material Site Permits & Fees regarding Applications, Conditions, and Procedures

The gravel pit at the top of our road is inactive and has been for at least 10 years well past the 365-day requirement. When the gravel pit was last active, we did not have as many houses in our subdivision as we do now (28 out of 40 lots); or as many children and grandchildren in the neighborhood either. We do **not** have a Borough maintained roads through our subdivision, they are owner maintained from road dues collected with matched grants from the Borough. If the gravel pit at the top of the road would start operating again like it did back at the beginning stages of our subdivision, our road as we know it now would not survive the brutal abuse of the constant traffic of trucks all day, every day. Your notice of decision seems to be for property owners within 100 ft of pit operation, however, trucks impact every property owner in our subdivision (there is only one way in and out on our roads not maintained by the Borough - China Poot St & Deitz Lane). I want to see clear and concise rules for how road

groups on roads not maintained by the Borough would be able recover costs incurred from the Gravel Pit, or would the Gravel Pit be responsible for the maintenance directly? If this gravel pit would reopen, is the current owner responsible for reclamation of past problems whether they were responsible at the time of damage?

I strongly recommend that ALL gravel pit permits be reviewed every 5 years and the owner be required to justify its renewal and that the site location is suitable for a commercial business and compatible with the surrounding neighborhood. The location should be in full compliance with all applicable state and borough ordnance's concerning public safety, noise (gravel pit & trucking/J-braking), operating hours, use of rock crusher, dust control (in the gravel pit, trucking) and road maintenance on roads used to access the site. They should also be in full compliance with OSHA and the EPA and ensure they do not affect ground water levels/tables to adjacent properties. In our case, the gravel pit sits at the top of China Poot, above all the other lots, on a downward sloping hill. If they were to disrupt the water table by their operation, that would affect everyone downhill that has water rights. Please inform me of any future meeting on this subject!

Sincerely,

Deborah Anderson
Property Owner

--
Sent from Gmail Mobile

Warner, Avery

From: Blankenship, Johni
Sent: Monday, October 24, 2022 4:10 PM
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>Comment on gravel pit ordinance

-----Original Message-----
From: laura sievert <laurasievert@hotmail.com>
Sent: Monday, October 24, 2022 3:11 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Comment on gravel pit ordinance

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To the Assembly:

Over the last year or so I have commented on and sent photo evidence of violations of existing gravel pit regulations in the Cone pit and Glen Martin's pit that abut my property on Beaver Loop.

Before finalizing the ordinance currently being considered, I would urge you to go out and walk around those pits in order to see the need not only for regulations, but also for enforcement of those regulations. As I've stated before, the violations are both long term- dumped asphalt, kiddie pool oil catchers under leaking vehicles, junked equipment, etc, and also short term- such as removal of required buffer zones. That violation was done in a couple of hours and the city of Kenai could do nothing.

I hope that you can craft an ordinance that prevents such activity. I would also propose that very large monetary bonds be posted before mining commences, and that the pits undergo periodic inspection by the Borough.

Thank you.

Laura Sievert 3329 Beaver Loop, Kenai

Warner, Avery

From: Blankenship, Johni
Sent: Monday, October 24, 2022 5:01 PM
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>Public Comment on KPB Ordinance 2022-36

-----Original Message-----
From: Kaitlin Vadla <kaitlinvadla@gmail.com>
Sent: Monday, October 24, 2022 4:55 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Public Comment on KPB Ordinance 2022-36

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I support the introduction and further discussion of KENAI PENINSULA BOROUGH ORDINANCE 2022-36: AN ORDINANCE AMENDING KPB CHAPTER 21.25 AND KPB CHAPTER 21.29 REGARDING CONDITIONAL LAND USE PERMITS AND MATERIAL SITE PERMITS, UPDATING NOTICE, APPLICABILITY, PERMIT TYPES, APPLICATION REQUIREMENTS, STANDARDS AND PERMITS CONDITIONS.

As chair of Soldotna's Planning and Zoning Commission, I have seen multiple conflicting land-use and property value issues over the years. The city's geographic purview is quite small compared to the borough's and we look to the assembly's discussion and passage of this ordinance as we seek to incorporate best practices when updating our municipal code regarding material site permits in the near future.

I hope the borough retains measures in this ordinance that help level the playing field for all current and future entrepreneurs who wish to provide KPB residents with much needed materials like gravel. Currently, pits that have been allowed to operate under outdated rules have an unfair advantage. My hope is that this ordinance will retain these grandfathered pets ability to operate, while bringing them gradually into compliance with at least the bare minimum safety and environmental standards.

Kaitlin Vadla
Clam Gulch

Kenai Peninsula Borough
Material Site Subcommittee

Public Comment Submitted 2022-10-24 22:34:55

Name
Joshua Ross
Email Address
rocky@legacyak.net
Subject
O2022-36
Message
Based on a quick review of who is in favor of and who is opposed to this ordinance, I will be sending in a letter in opposition of proposed changes. I believe these changes are unnecessary, don't solve any issues (if there are any) and will dramatically increase aggregate costs on the southern peninsula. Rarely is more government involvement the best answer to any issue. Should issues with the current ordinance/permitting process exist, at a minimum, the assembly must seek professional input from local aggregate handling businesses. Increasing costs associated with handling aggregates WILL eliminate many smaller businesses, make land development more difficult and expensive, and further increase building expenses for homeowners and builders alike. The trickle down impacts of increasing cost of litteral foundations are impossible to estimate.

Good evening.

My name is Dan DeRaeve. I am the owner and President of Peninsula Sand & Gravel. We have a PEU gravel pit a couple miles east of Sterling.

First of all I'd like to say that I feel for the people in Anchor Point that have the problem with their home sites. I think they may have a legitimate complaint and if so, I hope they get their issues resolved.

On the other hand I don't understand why the assembly is considering lumping all gravel pits together and taking away our PEU status. It seems that because of a few isolated incidents and bad actors a great many will suffer. It makes more sense to me to deal with the individual problems and leave the pit owners that are not involved out of it.

I am also concerned about the water table restrictions. This greatly reduces the gravel resources for pit owners and in some cases will put some smaller pit owners out of business. For the others it will drive the cost of operations up substantially and ultimately drive the cost of gravel up. As gravel pit owners, we cannot shoulder the burden of the cost of the added restrictions. All we can do is raise the cost of our products which will affect everyone. Everyone uses the material that comes out of these gravel pits in one form or another. Whether it be gravel, sand, concrete, brick, and block for our homes or pavement, concrete and many forms of gravel products for our roads, bridges, buildings and airports.

So I am asking the KPB assembly members to carefully consider these things before you make your decisions. I thank you for your time and considerations.

Sincerely,

Dan DeRaeve

Warner, Avery

From: Blankenship, Johni
Sent: Tuesday, October 25, 2022 8:49 AM
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>public hearing Oct 25,2022 for Conditional Land Permits

From: Steve Ruther <Steve.Ruther@outlook.com>
Sent: Monday, October 24, 2022 5:51 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>public hearing Oct 25,2022 for Conditional Land Permits

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We have received notice that we may comment on proposed amendments to Conditional Land Use Permits as we are a land owner within 2,640 feet of an existing material site. It is most disruptive to our business when trucks hauling gravel or other such material drive by our location and use their gears to slow down for the stop light at East Poppy Lane and Kalifornsky Beach Road. By downshifting in this manner their trucks emit a loud rumbling engine noise that can actually interrupt normal personal and phone conversations in our office. We would appreciate an advisory that all trucks within business or residential area be forbidden to create this noise pollution.

Thank you,

Steve & Karen Rutherford

FLOOR-EVER, INC.
47201 EAST POPPY LANE
SOLDOTNA, AK 99669
907-260-9270 office
907-953-9270 cell

Kenai Peninsula Borough
Material Site Subcommittee

Public Comment Submitted 2022-10-24 17:31:32

Name
Mark Tornai
Email Address
mdtornai@gmail.com
Subject
Amendments to material site ordinance
Message
The Counter Permit should remain no more than 2.5 acre size and retain a new language concerning a 2 year time with one 12 month extension. Justification: To allow a material site greater than 2.5 acres would have multiple negative impacts to the properties in the vicinity. Without any prior public input, this change is irresponsible and will be a great disservice to the residents of the borough. Also, it would not be in accordance with the Comprehensive Plan.

Warner, Avery

From: Blankenship, Johni
Sent: Tuesday, October 25, 2022 9:50 AM
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>02022-36 Material site Permitting

From: Douglas B Schade <dougschade50@gmail.com>
Sent: Tuesday, October 25, 2022 9:10 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>02022-36 Material site Permitting

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To the Mayor, President and Members of the Kenai Peninsula Borough Assembly

RE: Opposition to Proposed Ordinance 2022-36

In regard to the upcoming ordinance 02022-36, I believe this ordinance if in acted is going to cause the general public undo (significant) harm. As Stated in the Memorandum from the Planning Director Robert Ruffner: (especially dimensional or durational descriptions like the 365-day period for the prior-existing use abandonment are intended to act as "springboards" for the Assembly) In effects this gives the KPB the right to cancel the PEU permits.

By doing so the cost for new homes, upgrading roads and current roads are going to skyrocket. When you take the little "guy" out of the system and only allow the big producers with the capital to conform with the new requirements, you are limiting competing, and the remaining operator will need to pass the cost on to the customer. For an example: In 2011 the cost for gravel delivered in the Homer area was around $105.00 for 10 yards. This summer (2022) the same load, from the same pit, was around $225.00, an increase way above the standard cost of living increases. On average, the current cost of a new home start is going to run around $30,000 to $50,000 for the driveway, sewer and foundation. The new ordinance can be expected to increase a new home start by at least 30%. That is a increase of $9,000.00 to $15,000.00 per home start. It also stands to reason that this ordinance will increase the cost to build and maintain our current and new road system, but by how much is really undetermined at this time.

I understand the assembly is responding to complaints from the general public about the noise and dust of the pits, many of which have been in use for years. However, it should be noted that due to the increased need of housing, many of these people bought in subdivisions which had been built around the gravel source; largely in order to keep the cost down. The new homeowners are now complaining that the gravel pit is disturbing them, but they were able to afford the new home because of the gravel pit. There are better ways for the KPB and its citizens to work on being better neighbors, without the significant economic costs.

Please remember these operators have been keeping the PEU pits in operation, which gives a constant supply of affordable gravel to the general public. In these difficult economic times, where people are struggling to make ends meet, this is not a prudent measure.

Thank you for your time and consideration.

Douglas B Schade

34705 Lusky Rd

Homer Ak 99603

907-235-8939

907-399-8734

Sent from Mail for Windows

Warner, Avery

From: Blankenship, Johni
Sent: Tuesday, October 25, 2022 10:14 AM
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>Proposed Ordinance 2022-36

From: Natasha Schade <schade@horizonsatellite.com>
Sent: Tuesday, October 25, 2022 10:12 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Proposed Ordinance 2022-36

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To the Mayor, President and Members of the Kenai Peninsula Borough Assembly

RE: Opposition to Proposed Ordinance 2022-36

In regard to the upcoming ordinance 02022-36, this ordinance if enacted will cause the general public substantial undo economic harm. As Stated in the Memorandum from the Planning Director Robert Ruffner: (especially dimensional or durational descriptions like the 365-day period for the prior-existing use abandonment are intended to act as "springboards" for the Assembly) In effects this gives the KPB the right to cancel the PEU permits.

By doing so the cost for new homes, upgrading current roads and development of new roads will skyrocket, thus effecting small business and consumer alike. Even to the point of forcing smaller businesses out of the market. When you take the little "guy" out of the system and only allow the big producers with the capital to conform with the new requirements, you are limiting competition, and the remaining operator will need to pass the cost on to the customer. For an example: In 2011 the cost for gravel delivered in the Homer area was around $105.00 for 10 yards. This summer (2022) the same load, from the same pit, was around $225.00, an increase way above the standard cost of living increases. On average, the current cost of a new driveway, sewer, and foundation will run approximately $30,000 to $50,000. The new ordinance can be expected to increase a that same work by at least 30%. That is an increase of $9,000.00 to $15,000.00 per home start, just for the groundwork. It also stands to reason that this ordinance will increase the cost to build and maintain our current and road system, but by how much is really undetermined at this time.

From my understanding, the assembly is responding to complaints from the general public about the noise and dust of the pits, many of which have been in use for years and even decades prior to the public encroachment. It should be noted that due to the increased demand and cost of housing, many people purchased in subdivisions and built around these gravel sources in order to keep their own purchase and build costs down. The new homeowners are now complaining that the gravel pit is disturbing them. However, it is because of that gravel pit, they were able to afford the land and new home. There are better ways for the KPB and its citizens to work on being better neighbors without the significant economic costs that will result from this proposed ordinance.

Please remember these operators have been keeping the PEU pits in operation, which gives a constant supply of affordable gravel to the general public. In these difficult economic times, when people are struggling to make ends meet, this is not a prudent measure.

Thank you for your time and consideration.

Natasha Schade
34705 Lusky Rd.
Homer, AK 99603
(907)235-2695
(907)399-1065

Warner, Avery

From: Blankenship, Johni
Sent: Tuesday, October 25, 2022 11:11 AM
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>Materials Site Assembly Public Comment for 10/25/22 Meeting: Please forward for reading at tonight's meeting

From: ullr 907 <ullr907@yahoo.com>
Sent: Tuesday, October 25, 2022 10:53 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Materials Site Assembly Public Comment for 10/25/22 Meeting: Please forward for reading at tonight's meeting

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To the Kenai Borough Materials Site Subcommittee:

My name is Daniel Hawksworth. I am a permanent resident of Hope, Alaska and have resided near the KPB Materials Site adjacent to the Hope Airstrip for over 20 years.

For the entire duration of my residency here, the KPB has allowed flagrant and continuous violations of it's permitted use agreement with one particular contractor, AG & Building Supply, Owned by Robert Davidson of Hope, Alaska.

I have submitted volumes of documentation over the years to Julie Dennison at the Land Management division of the KPB. Julie has been a champion of perpetually attempting to bring this contractor into compliance, but unfortunately, a lack of funding and resources means there are no "teeth" so to speak, to enforce permit agreements and violations of the terms of use agreements made with the KPB to operate at this site.

A great example of this would be the numerous pieces of dilapidated heavy equipment like bulldozers that have been allowed to occupy this Materials Site as a personal equipment storage space for AG & Building Supply. Despite not being used or relating to any permitted work, these relics have and continue to leak copious amounts of oils directly onto the ground without any attempt to contain them at whatever location within the Materials Site the contractor chooses to park them.

Another example would be the same contractor, AG & Building Supply, routinely operating in violation of the permit agreement, the posted regulations and standards the KPB requires to operate on the site as well as Alaska OSHA and M-SHAW regulations regarding slope angle and benching of excavation work. Vertical excavation is not allowed, yet the contractor repeatedly engages in such unsafe practices without penalty. It is only after repeated requests are made to the KPB, and even then, very infrequently, is the contractor required to restore the excavated slope into compliance with regulations. A 30 foot vertical fall hazard without any attempt to delineate the area is simply gross negligence and carelessness by the part of the contractor.

The Land Management division clearly lacks the resources needed to oversee the proper operating procedures of it's permitted users. So similarly, we see a lack of resources to correct other site related issues. And I am only speaking to one site, so i imagine this to be quite a common and widespread issue on the Kenai Peninsula.

No enforcement of site hours of operation. No enforcement of improper activities on the site such as camping or target shooting. No attempts to maintain or replace signage around the site. No gates or securing of access of the site. No enforcement of dumping of prohibited materials. No method of accurately reporting the amount of materials being removed from the site. These are all issues I routinely witness at the Hope Materials Site.

To the Subcommittee, I ask you to please listen to what KPB residents that live near your Materials Sites are telling you. I ask you to please take actions that will allow for and fund the enforcement of Site Use Agreement violations. I ask you to take actions that have consequence to the violator. I ask that you take actions that show you acknowledge the concerns of neighbors of these Materials Sites, such as noise, hours of operation, dust control, unauthorized usage such as shooting, partying, and driving of off road vehicles. I ask you to limit access to all of the Materials Sites after hours by the use of locking gates, I ask you to hold contractors accountable for repeated bad behavior at these Materials Sites by terminating permits and contractual agreements (ie for road maintenance contracts) and not entering into any future agreements with repeat Site violators.

As the saying goes, KPB Materials Site Subcommittee members, it's time to grow a pair.

Sincerely,

Daniel Hawksworth
Hope, AK

.

Warner, Avery

From: Blankenship, Johni
Sent: Tuesday, October 25, 2022 9:10 PM
To: Warner, Avery
Subject: FW: New Public Comment to Assembly Members

From: Kenai Peninsula Borough <webmaster@borough.kenai.ak.us>
Sent: Tuesday, October 25, 2022 4:32 PM
To: BoroughAssembly <Borough-Assembly@kpb.us>; Mayor's Department <MayorDepartmental@kpb.us>
Subject: New Public Comment to Assembly Members

Your Name: Buck Allen Jones

Your Email: eastrdsv@hotmail.com

Subject: Gravel Pit Ordinance

Message:

Increasing regulation on material source sites drives up the cost of gravel, asphalt, and concrete. This drives up the cost of all new development and infrastructure maintenance, public and private. As older pits are exhausted, new ones need to take their place or gravel must be trucked from farther and farther away. This is the primary reason borough CIP's are running over budget in the Homer area. Gravel is currently being trucked from Stariski. All new regulation comes with an increased cost to be paid by the customer.

Warner, Avery

From: Blankenship, Johni
Sent: Tuesday, October 25, 2022 9:10 PM
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>Material site public hearings

From: kristine shine <kboenisch@hotmail.com>
Sent: Tuesday, October 25, 2022 5:30 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Material site public hearings

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Hello,

You sent a letter in the mail to me regarding being a landowner within 2640 feet of a Permitted material site. I won't be attending the meeting but am wondering is this in reference to something across the river from me or the sand site near me on Lou Morgan? If it's in regards to the sand site which seems purposely hidden within our neighborhood, I'd like to say those heavy trucks traveling down Harbin and Panoramic View have done a huge amount of damage to those dirt roads. I'm sure car repairs are necessities for those of us who have to travel those roads to get to the Sterling Hwy. These outfits doing this digging of natural resources should have to use the paved roads. And if found to be taking side dirt roads should have to pay some fine to contribute to the resurfacing of the dirt roads. It was a rainy Fall. Harbin and Panoramic View were hellacious to travel on. And the road only got resurfaced with dirt and rock a couple times.

Lastly, what is this digging doing to our aquifer? How far down are you allowing these outfits to dig? I'll email back to see what these answers are unless you are sending letters out to us regarding the summary of these public hearings.
Thank you for your attention to these matters.

Sincerely,
Kristine Shine
37520 Polo Alto Ct. (Morgan's Landing State Park)
Sterling, AK

Warner, Avery

From: Blankenship, Johni
Sent: Tuesday, October 25, 2022 3:50 PM
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>Comments on KPB Ordinance 2022-36 regarding Material Site Permits, Applications, Conditions and Procedures

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From: Nancy Pease <nancypease2@gmail.com>
Sent: Tuesday, October 25, 2022 3:47 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Cc: Thomas Pease <thomaspease@alaskan.net>; David Pease <peased907@gmail.com>
Subject: <EXTERNAL-SENDER>Comments on KPB Ordinance 2022-36 regarding Material Site Permits, Applications, Conditions and Procedures

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

TO: Borough Assembly and Staff Planners

Re: Assembly Ordinance 2022-36 Amending KPB Chapter 21.25 and KPB Chapter 21.29 regarding Conditional Land Use Permits and Material Site Permits

My family owns property in Seldovia near Kenai Peninsula Borough (KPB) property that has materials resources. We generally support the efforts to develop a permitting system for materials sites in order to protect surrounding property values and land uses, as well as air and water quality.

Regarding the specifics of proposed KPB Ordinance 2022-36:

1. Amend the Standards Section of 21.29.040.A to expressly acknowledge adjoining property values and existing uses:

> A. These material site regulations are intended to protect against aquifer disturbance, road damage, physical damage to adjacent properties, dust, noise and other impacts of earth materials extraction sites through setbacks, buffer zones, and street-level visual screening **adequate to maintain adjoining property values and existing land uses** . Prior to granting a counter permit or conditional land use permit under this chapter, the planning director or planning commission, as applicable, must make the following findings: ...

This language is necessary to consider the measurable effect of any protection measures. Protection measures should not be mere tokens.

2. Amend the Buffer Zone section, 21.29.050.A.1 to ensure an effective buffer zone:

1. Buffer Zone.

A buffer area of ~~32.~~ **60** feet must be established between the area of excavation and the parcel boundaries, except the minimum shall be 100 feet adjoining residential land uses. The buffer area ~~may~~ **shall** include one or more of the following: undisturbed natural vegetation that provides sufficient noise and street-level visual screening; an eight- foot earthen berm with a 2:1 slope; or a minimum eight-foot fence;

This language is necessary to ensure that the buffer minimizes noise and vibrations as well as visual impacts. 32 feet is only half a standard road Right-of-Way. No one should have a materials extraction site closer than "just across the road". And at least one type of the physical screening/buffering elements should be mandated. Otherwise, a strip of bare earth would be permitted: and that has no buffer effect.

3. Amend 21.29.B.1.c to ensure visual screening:

2. When a buffer area has been denuded prior to review of the application by the planning commission or planning director revegetation may be required **and an 8-foot high berm or fence shall be required until the vegetation has achieved a screening effect**.

This language provides that a denuded buffer will have an effective manmade visual screen until vegetation re-grows.

4. Amend 21.29.057.C.7.d to protect simple drinking water systems:

d. Minimum separation distances do not apply to drinking water sources constructed after a permit to extract material below the water table has been issued. **Protected drinking water sources include surface collection points that are in use prior to the permit application.**

This language protects springs, small creeks, and seeps that residents tap for drinking water, not just drilled wells.

Thank you for this opportunity to comment on protection measures for lands and waters adjoining potential materials extraction sites.

Nancy Pease and family

Property owners in the Seldovia area

nancypease2@gmail.com

October 25, 2022

Kenai Peninsula Borough Planning Department

We are writing to oppose the proposed ordinance change that would allow permits for gravel pits up to 10 acres. The Counter Permit should remain at no more than 2.5 acres in size and retain a new language of a 2-year time period with one 12 month extension.

This is very much a noise, visual, and quality of life issue for neighborhood homes and residents in the borough. These gravel pits have a grave negative impact on water and wildlife as well.

My husband and I live in New York but purchased our land in Anchor Point as a retirement destination. We have been to many places in Alaska but were always charmed by the areas of Homer and Anchor Point. We purposely purchased in a subdivision with the hope that our retirement home would be within a lovely residential area with other houses and neighbors. It is disheartening to see the proliferation of these gravel pits that make the area seem like a construction zone. A 10-acre gravel pit would literally be 5 times the size of my lot! I cannot imagine any family wanting to live so close to a noisy, dusty gravel pit. The noise and pollution of all the heavy equipment is not conducive to healthy living.

We understand the need for building, maintenance, and expansion, but those needs have to be balanced with preservation of Alaska's natural resources and quality of life for residents. Would any of you be pleased with a noisy, dirty, loud gravel pit close to your family's house? Would you feel safe with your children and pets next door to one?

We implore you to seriously consider the devastating consequences if this ordinance is passed.

Sincerely,

Edward J. and Denise Burgin

213 N. 4th Street, Bethpage, NY 11714

(owners of property at Creekside Heights)

516 938 8013

Warner, Avery

From: Blankenship, Johni
Sent: Wednesday, October 26, 2022 10:22 AM
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>2022-36 regulations to the pits

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From: Victoria Chase <victoria.chase@LIVE.COM>
Sent: Wednesday, October 26, 2022 10:11 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>2022-36 regulations to the pits

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Regarding the new regulations to the pits. I have lived near them majority of my life and do not have a problem living near them. It has never bothered me. But also I think The borough does not maintain the roads properly, I think with new regulations and things putting in place within pits I think it will make things much worse.

Get Outlook for iOS

Warner, Avery

From: Blankenship, Johni
Sent: Friday, October 28, 2022 4:52 PM
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>KPB Ordinance 2019-30 / 2019-30 SUB

From: Larry Smith <dlconst.smith@gmail.com>
Sent: Friday, October 28, 2022 4:34 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: Re: <EXTERNAL-SENDER>KPB Ordinance 2019-30 / 2019-30 SUB

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Madam Clerk,
Here we are nearly three years later and my comments still apply to the pending gravel pit Ordinance. Please forward my comments to all Assembly members once again. Thank you.

On Mon, Jan 6, 2020 at 11:52 AM Blankenship, Johni <JBlankenship@kpb.us> wrote:

> Larry, your comments will be distributed to the Assembly for consideration.
>
> Thank you, Johni

From: Larry Smith [mailto:dlconst.smith@gmail.com]
Sent: Sunday, January 05, 2020 8:59 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>KPB Ordinance 2019-30 / 2019-30 SUB

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Madam Clerk,

Please forward my comments on this Ordinance to the Mayor and all Assembly members. Thank you.

My name is Larry Smith. My brother and I own a construction company and three gravel pits in the KPB. I was a contractor / gravel pit owner member of the KPB Material Site Working Group. I was the only member of that group to vote NO on the changes forwarded to the Planning Commission and the Assembly. I oppose this Ordinance and urge you to vote NO on these new and unnecessary regulations.

I oppose this Ordinance for some of the following reasons;

1) It attempts to regulate "viewshed" and there is no right to a viewshed. Viewshed is "feel good" language and you will not be able to enforce it;

2) Mining noise (equipment noise) is already regulated by the Mining Safety & Health Administration and both Federal and State OSHA. The decibel level proposed is not reasonable for heavy equipment and trucks and you will not be able to enforce it;

3) If you pass this ordinance how do you propose to enforce it and what will it cost KPB taxpayers? I asked this question of the Planning Director at the MSWG meeting(s) and was told it would not require any more money or staff.

There are already over 350 material sites and this just seems an unreasonable number to regulate with these new regulations and your existing staff and funding;

4) The State of Alaska has a number of material sites in the KPB that have no reclamation. How do you propose to enforce these new regulations with regards to these sites? And, if you can not, how can you then enforce them against private material site owners?;

5) Material site owners are not the only ones who make noise and create dust. Aren't you discriminating against material site owners if you do not impose these regulations against every other entity who makes noise and dust? For example, airplanes operating off gravel runways, garbage trucks when picking up large dumpsters and when backing up, maintenance equipment under contract to the KPB Roads department when maintaining KPB roads;

5) During the MSWG meetings it was determined that the Planning Commission was improperly administering the buffers relative to material sites. The Planning Commission was stacking buffer zones, six foot high berms and fences when the existing and proposed Ordinance specifically says "OR" relative to these. Will the Planning Commission continue to stack?;

Please vote NO on this Ordinance.

--

Larry Smith

President

D & L Construction Co., Inc.

(907) 262-6160

(907) 262-6163 Fax

(907) 398-4284 Cell

--
Larry Smith

President
D & L Construction Co., Inc.
(907) 262-6160
(907) 262-6163 Fax
(907) 398-4284 Cell

RECEIVED

OCT 2 8 2022

Borough Clerk's Office
Kenai Peninsula Borough

TO: Assembly Clerk

Soldotna, Ak.

October 25, 2022

SUBJECT: Kenai Peninsula Borough (KPB) Material Site Assembly

As a twenty-five-year property owner within 2,640 feet of a Prior Existing Use, Conditional Land Use, Dewater Bar or Counter Permitted material site, of Homer and a forty-year Alaskan I wish to present concerns I have regarding relevant sections of KPB code 21.29, 21.25, 21.50.055.

My concerns follow:

1) Extensive and expensive building in Homer of both commercial and residential, secondary homes, and retirement homes are increasing at a rapid pace. How will this fit with gravel pits?

2) Designate gravel pits in specific areas, not vast unspecified places

3) Traffic and truck frequency, hauling size and weight, and timing constraints must be considered. Also, driveways and traffic impact. Adapt State of Alaska DOT regulations. Require permits and design controls

4) Insertion and consideration of wildlife corridors must be included.

5) Visual enhancement and screening ordinances need to be designated.

6) Step back from wells of at least 500 feet must be required for clean safe water.

7) Noise ordinances implemented.

8) Monitoring of water quality in wells for metals, contamination, and turbidity, plus the lowering of all water levels must be implemented.

9) No permit required for pits of one acre but less than 2.5 acres??? Permits required for each pit regardless of size.

10) Place a tax on materials withdrawn. The tax will be used for public purposes, so materials are just not "taken" from the resident population

Please keep me informed of all future action regarding this topic. Please mail all correspondence to 1800 Parkside Dr, Anchorage, AK 99501.

Sincerely,

Barbara N. Reilly

Barbara N Reilly

40963 Heather St

Homer, Alaska 99603

Warner, Avery

From: Blankenship, Johni
Sent: Wednesday, November 9, 2022 3:39 PM
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>MATERIAL SITE AMENDMENTS

Public comment for O2022-36 material site

From: Hans Bilben <catchalaska@alaska.net>
Sent: Wednesday, November 9, 2022 3:35 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>MATERIAL SITE AMENDMENTS

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Hi Johni,
Would you please forward this to Assembly members and Planning.. Thanks

Assembly Members,

At the onset of the process to create a new material site ordinance it became apparent that the wishes of gravel operators and neighboring property owners were miles apart on just what this document might look like. There seemed to be consensus among you that if the two sides could reach common ground on at least some of the sections it would benefit and streamline the process. Ed Martin III (president of KPAC Association) and I agreed to work toward that end. After 4 1/2 years of involvement with the current ordinance, as well as participating in the former material site working group meetings and the current proceedings, I see the ordinance through the eyes of a property owner next to a proposed material site. Ed and I spent many hours discussing, negotiating, and trying to come up with language that could benefit both sides—obviously we don't agree on everything, but we put together a document. That document is now in the agenda as the "Derkevorkian Amendments" and within it are **18 sections** that we both agreed upon as beneficial. The attachment below details which sections that Ed and I agreed upon.

We sincerely hope that you will use this as a starting point, adopt these amendments, and then get on with the process of completing the remainder of the ordinance.

Hans Bilben
Anchor Point

Amendments within the Derkevorkian proposal which were agreed upon by are designated by ++ **OK.**

Amendments partially agreed upon are designated by +++ with desired changes noted.

21.29.010(C)
++ OK

21.29.015(D)
++ OK

21.29.050(A)(1)(a) +++ Agreement except should read "…provide **visual** and noise screening…"

(A)(1)(f)
+++ OK
Change and to or and change technology's to technology.

(A)(1)(g)
++ OK

(A)(2)(b)
++ OK

(A)(2)(c)
++ OK

(A)(4)
++ OK

(A)(5)(a)
++ OK

(B)(1)(c)
++ OK

(B)(4)
++ OK

21.29.055(A)
++ OK

(B)
++ OK

21.29.057
++ OK

21.29.063
++ OK

21.29.065
++ OK

21.29.130
Definitions

(A)(8)
++ OK

(A)(21)
++ Ok

Warner, Avery

From: Blankenship, Johni
Sent: Thursday, November 10, 2022 1:15 PM
To: Warner, Avery
Subject: FW: <EXTERNAL-SENDER>Kachemak Bay State Parks Citizen's Advisory Board Comments
Attachments: KBSP CAB RESOLUTION 2022 - 3 .pdf

Avery, please see the attached public comment for O2022-36.

Thank you, Johni

From: Robert Archibald <robert.e.archibald@gmail.com>
Sent: Thursday, November 10, 2022 1:05 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Kachemak Bay State Parks Citizen's Advisory Board Comments

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

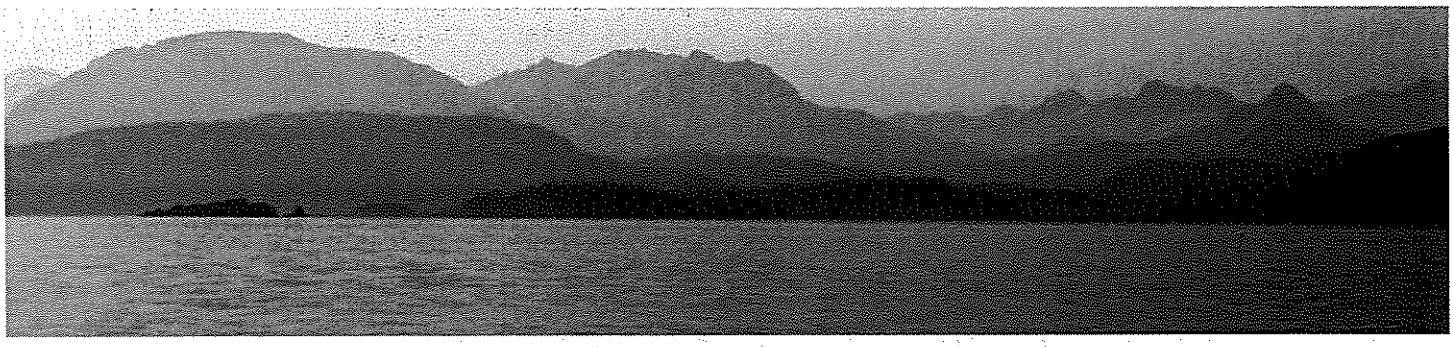
Dear Borough Clerk,

Attached is Resolution 200-3 passed by The Kachemak Bay State Parks and Kachemak Bay State Wilderness Park Citizens Advisory Board, (KBSP & KBWP CAB) on November 9, 2022 concerning updating Ordinance 2022-36, Amending KPB Chapter 21.25 and KPB Chapter 21.29 Regarding Conditional Land Use Permits and Material Site Permits and Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions.

Please pass the attached resolution on to members of the Borough Assembly and Committees dealing with updating these regulations.

Respectfully,

Robert Archibald. Chair
KBSP & KBSWP CAB



Kachemak Bay State Parks and Kachemak Bay State Wilderness Park Volunteer Citizen's Advisory Board
95 Sterling Hwy, Suite 2, Homer, AK 99603

To
Kenai Peninsula Assembly Members
Filed Electronically
assemblyclerk@kpb.us

Resolution 2022 - 3

A RESOLUTION OF THE KACHEMAK BAY STATE PARKS AND KACHEMAK BAY STATE WILDERNESS PARK VOLUNTEER CITIZEN'S ADVISORY BOARD REQUESTING A SET BACK FROM ALASKA STATE PARK BOUNDRIES

WHEREAS, The Alaska Legislature created the Kachemak Bay State Park and the Kachemak Bay State Wilderness Park, (KBSP & KBSWP) in 1970 to "...protect and preserve [the park's] unique and exceptional scenic value"; and

WHEREAS, KBSP & KBSWP were formed and designated as a special purpose site under the Alaska Constitution article 8, section 7; and

WHEREAS, The Kachemak Bay State Park and Kachemak Bay State Wilderness Park Volunteer Citizen's Advisory Board was created in 1982 to provide a forum for the collection and expression of opinions and recommendations on matters relating to the Kachemak Bay State Park and Kachemak Bay State Wilderness Park to promote thereby the protection of the resources of the Kachemak Bay State Park and Kachemak Bay State Wilderness Park including its scenery, vegetation, wildlife, soils, waters, historic features, and wilderness core and outdoor recreational opportunities; and to promote therefore communication between the public, state, and local government and the administrators of the Kachemak Bay State Park and Kachemak Bay State Wilderness Park; and

WHEREAS, Kachemak Bay State Park and Kachemak Bay State Wilderness Park provide important recreational and economic opportunities for local residents and attracts tens of thousands of visitors each year who support a broad range of local businesses and jobs; and

WHEREAS, The Kenai Peninsula Borough is in the process of updating Ordinance 2022-36, Amending KPB Chapter 21.25 and KPB Chapter 21.29 Regarding Conditional Land Use Permits and Material Site Permits and Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions; and

WHEREAS, The Kachemak Bay State Park Citizen's Advisory Board supports the value of an enjoyable environment in Alaska State Parks; and

WHEREAS, The conclusive effects of Material Site operations to adjoining State Parks have not been in the discussion; and

WHEREAS, Citizens and tourists who visit Alaska State Parks deserve to have a unique experience not affected by industrial operations such as Material Extraction Sites; and

WHEREAS, It is a known fact that Material Extraction Sites create noise, air pollution and truck traffic which affect nearby areas, and

WHEREAS, The water quality to adjoining PARK LANDS and streams can be adversely affected.

NOW, THEREFORE, BE IT RESOLVED THAT THE KACHEMAK BAY STATE PARKS AND KACHEMAK BAY STATE WILDERNESS PARK VOLUNTEER CITIZEN'S ADVISORY BOARD

DOES SUPPORT A SET BACK OF 1,000 FEET FROM THE BOUNDARY LINE OF AN ALASKA STATE PARK, RECREATION SITE OR RECREATION AREA FOR THE PURPOSE OF MATERIAL EXTRACTION

FURTHERMORE

THIS SET BACK SHOULD INCLUDE NATIVE VEGATATION TO REDUCE NOISE, AND AIR POLLUTION FROM STATE PARK LANDS

PASSED BY THE KACHEMAK BAY STATE PARK AND KACHEMAK BAY STATE WILDERNESS PARK VOLUNTEER CITIZEN'S ADVISORY BOARD

ON THIS THE 9th DAY OF NOVEMBER 2022

Respectfully Submitted,

Robert E.Archibald

Robert E. Archibald

Chair
Kackemak Bay State Park and
Kachemak Bay Wilderness Park Volunteer Citizen's Advisory Board

VOTE
Yes – 11
No - 0
Absent - 1

CC.

Warner, Avery

From: Blankenship, Johni
Sent: Monday, November 14, 2022 12:44 PM
To: Warner, Avery
Subject: FW: New Public Comment to Assembly Members

From: Kenai Peninsula Borough <webmaster@borough.kenai.ak.us>
Sent: Monday, November 14, 2022 12:38 PM
To: BoroughAssembly <Borough-Assembly@kpb.us>; Mayor's Department <MayorDepartmental@kpb.us>
Subject: New Public Comment to Assembly Members

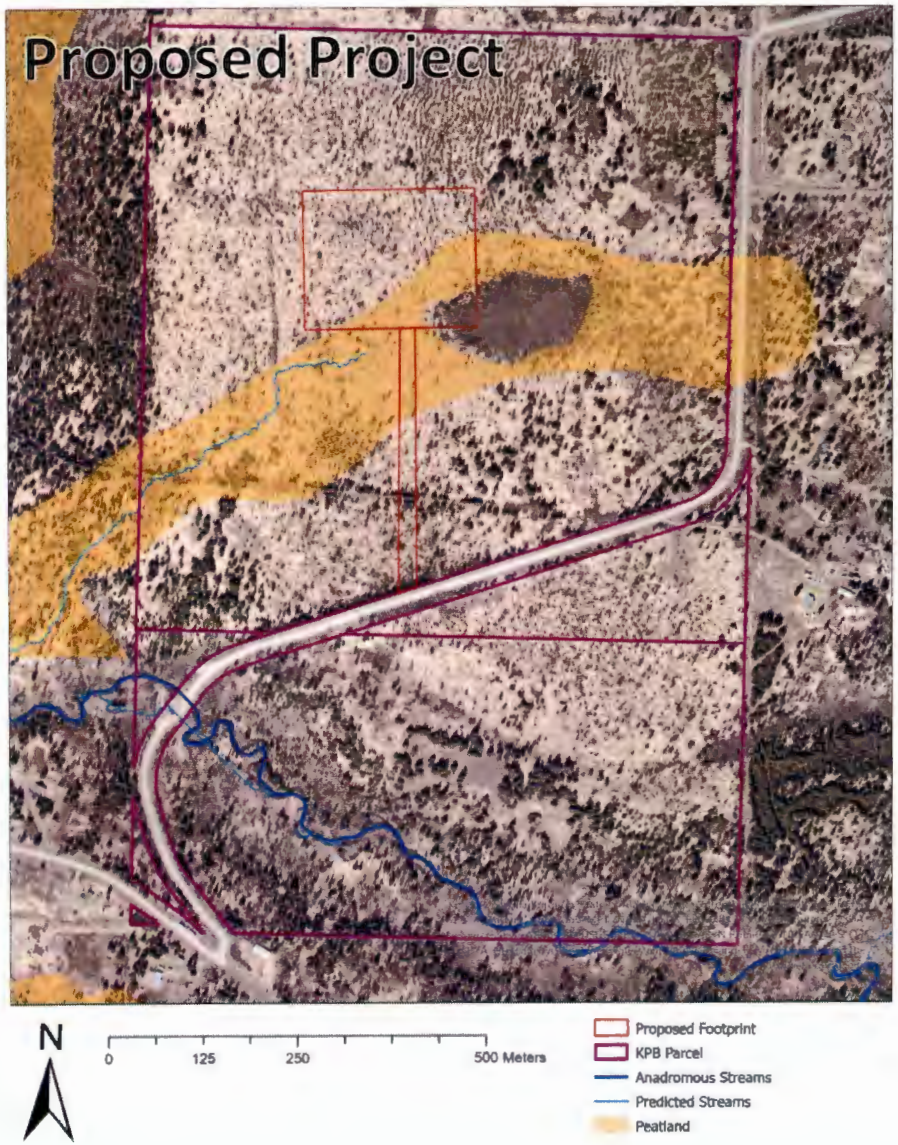
Your Name: Gordon and Sonja Nisler

Your Email: gs2aa@yahoo.com

Subject: 2022-057

Message:

We would like to express our support for this resolution not only because the state should not go into competition with existing private businesses but also because of the the negative impact on the neighborhood (Coal Creek Subdivision) that a state take out would have. We are worried about extra traffic, safety, road destruction,trash accumulation, no state law enforcement on site as well as many other issues that will destroy the current fabric of the neighborhood. Thanks for your consideration. By the way, we live in this neighborhood.


Proposed Project
N
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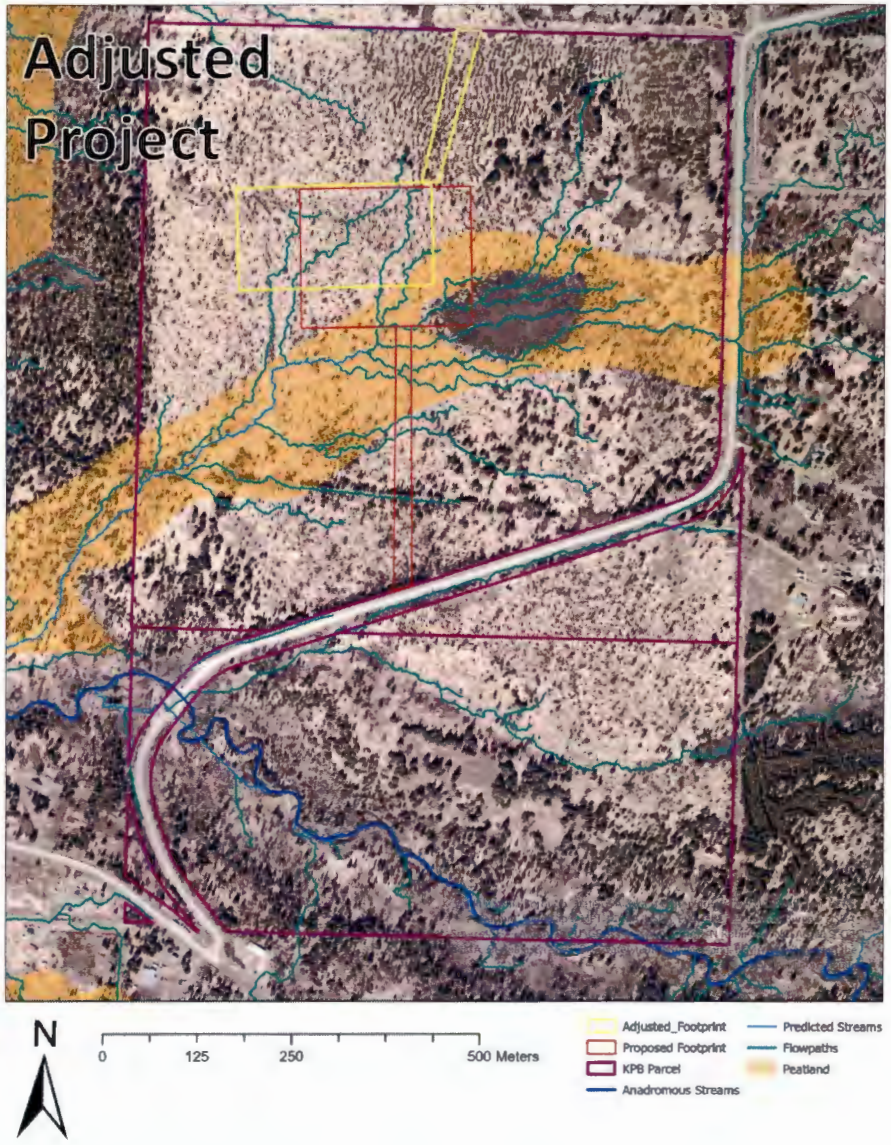
125
250
500 Meters
Proposed Footprint
KPB Parcel
Anadromous Streams
Predicted Streams
Peatland


Adjusted Project
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500 Meters
Adjusted_Footprint
Proposed Footprint
KPB Parcel
Anadromous Streams
Predicted Streams
Flowpaths
Peatland





Developing a peatland carbon project for the Kenai Peninsula

Decembeer 9, 2022

Mr. Brent Johnson, President,
Kenai Peninsula Borough Assembly
and Assembly members

Dear Mr. Johnson and Assembly Members,

Reading about the wish of the Assembly to review the Gravel Pit Ordinance, reminded me of my years if involvement with this.

Drew Scalzi wrote the first one, which the Gravel folks hatted, they did not feel it was necessary to control their businesses, and deeply resented the efforts. I got involved thanks to Ann Byes of Anchor Point, who lives near a prime example of gravel pit abuse, where a house stands totally isolated by the deep extractions all around it. She and I were concerned that future extraction would not affect residents nearby, and had asked for at least a 300 ft. distance from a busy gravel pit just outside the quiet subdivision, and those folks are not happy about it. They can get local option zoning within the subdivision, but no protection outside the subdivision.

It is time for the Assembly to consider zoning certain areas as residential, that would not allow gravel pits, or commercial businesses. It is the only way to ensure established subdivisions will be protected from commercial disturbances.

In the past there has been a huge outcry against zoning, but I think the time has come. I see the planning committee listening to impassioned cries against proposed gravel pits, and I can empathize. It is impossible to create an ordinance that will protect them, unless there is zoning.

And somehow we have to recognize there is a need for gravel in order to build anything, roads, homes, etc. That is a vital business on the Peninsula.

I do not envy you what lies ahead. I wish you the best in your endeavors.

Sincerely,

Milli Martin
P.O. Box 2652
Homer, Al;aska 99603

Warner, Avery

Subject: FW: <EXTERNAL-SENDER>Gravel Pit Ordinance 2022-36

From: Kathryn Carssow <kcarssow@live.com>
Sent: Friday, December 9, 2022 3:21 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Gravel Pit Ordinance 2022-36

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Dear Assemblymembers,

Gravel pits, if not designed thoughtfully and developed carefully, pose a serious risk to underground drinking water and aboveground salmon streams, especially damaging to salmon fry habitat. As one whose income was dependent on salmon sportfishing in the Kenai Peninsula Borough, I am concerned that this ordinance be consistent with wise water management. Please incorporate the following considerations into the ordinance:

- Keep surface and groundwater provisions in the ordinance to protect our drinking water and salmon streams from pollution.
- Keep the fairness provision in the ordinance that requires not only new pits but also Prior Existing Use (PEU) pits to file an application and reclamation plan before digging into surface or groundwater.
- Follow the recommendations of the hydrology experts for 1000ft buffers on all sides for drinking water, rather than only requiring a 500ft buffer on one side.

Thank you for your work on this important ordinance.

Sincerely, Kathryn Carssow, Homer

Sent from Mail for Windows

Kachemak Bay Conservation Society
3734 Ben Walters Ln, Homer, AK 99603
907 235.8214
kbayconservation@gmail.com

December 12, 2022

Comments on KPB Proposed Ordinance 2022-36

To

KBP Assembly and Mayor,

The Kachemak Bay Conservation Society, (KBCS) has the following concerns and questions regarding ordinance 2022-36:

1. Page 5, Section 21.29.010-C. Provide backup or refer to regulation on how the 300-foot linear distance was derived. Provide similar reference on rule or regulation for all other specific buffers mentioned in the document. Furthermore, we want to request a **1000 ft. Buffer** of natural vegetation from the boundary line of any state or federal recreation lands.

2. Pages 7, Section 21.29.030, the Site Plan needs to identify any EPA (and Alaska DEH) Wellhead Protection areas.

3. Page 8, Section 21.29.040, A2 add to the end "...and will protect known surface water, groundwater sources and salmon habitats."

4. Page 8, Section 21.29.040, A3, what are "sufficient" setbacks, buffer zones, and other safeguards? Please provide specifics. (See # 1)

5. Page 11, Section 21.29.050. 6 – correct: "4 feet below the proposed excavation" to "4 feet below the lowest elevation of the proposed excavated area"

6. Page 15, Section 21.29.057, 4f. Specify acceptable hydrologic techniques, methods or models for evaluation of subsurface and groundwater hydrology.

KBCS also has grave concerns regarding noise, traffic, air pollution, and safety in neighborhoods.

Respectively Submitted

Roberta Highland, President

Kachemak Bay Conservation Society

The Kachemak Bay Conservation Society's mission is to protect the environment of the Kachemak Bay region and greater Alaska by encouraging sustainable use and stewardship of natural resources through advocacy, education, information, and collaboration.

Warner, Avery

Subject: FW: <EXTERNAL-SENDER>Ordinance 2022-36 Commentss

From: Harold Shepherd <halshepherdwpc@gmail.com>
Sent: Monday, December 12, 2022 12:00 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Ordinance 2022-36 Commentss

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Water Policy Consulting, LLC (WPC) provides consultation and advisory services to conservation organizations and Alaska Native Villages throughout the state including the Kachemak Bay Watershed related to: Climate Change, water and natural resource management and protection, fish and wildlife protection, human rights, sovereignty, fund raising and environmental justice issues.

Please accept the following comments regarding the Kenai Peninsula Borough material site ordinance (gravel pit rules; Ordinance 2022-36) . Groundwater is critically important for people living on the Kenai Peninsula Lowlands as it is the primary source of water for most homes and businesses in this area. In the Lowlands region for example, most residents use domestic wells or developed springs as their water supply which are dependent upon limited groundwater resources, and which is therefore, vulnerable to changes in weather, climate, and/or water use.

Domestic water supply in some areas of the Lowlands, relies on regional reservoirs including the Bridge Creek Reservoir in the Anchor River Watershed which serves as the water supply for the City of Homer. The reservoir relies at least in part on the groundwater that emerges first from springs and thereafter flows through streams and into the Bridge Creek Reservoir.

Groundwater in the lowland also directly affects Salmon because it is critical for adequate stream flow, stream temperatures, and stream nutrients. Approximately half of summer stream flow begins by emerging from seeps and springs, which are sourced from groundwater. This groundwater is cooler than ambient stream water in the summer and warmer than ambient stream water in the winter, providing important thermal refugia for salmonids.

Similarly, groundwater comes into contact with soils and biota as it flows to streams. Alder are particularly important, having a symbiotic relationship with bacteria living in root nodules. The bacteria harvest gaseous nitrogen in the atmosphere, converting it to dissolved nitrogen that can be passed to the alder. The alder then use that nitrogen to build proteins and chlorophyll, the latter essential for the photosynthesis that creates sugars that can then passed back to the bacteria. As groundwater passes beneath alder, it emerges enriched in nitrogen, which can then enhance productivity in the streamside wetlands and the streams themselves.
In order to ensure clean water and healthy salmon in the region we must protect streams and groundwater. Gravel pits – if not designed thoughtfully and developed carefully – can pose a serious risk to salmon streams, especially baby salmon.

WPC therefore supports the following sections of and amendments to Ordinance 2022-36 which should be adopted in it's entirety:

- Keep surface and groundwater provisions in the ordinance to protect our drinking water and salmon streams from pollution;

- Keep the fairness provision in the ordinance that requires not only

new pits but also Prior Existing Use (PEU) pits to file an application and reclamation plan before digging into surface or groundwater;

- At the last hearing, hydrology experts recommended 1000ft buffers

on all sides for drinking water, but the ordinance only requires a 500ft buffer on one side.

These provisions in and changes to the Ordinance will help to ensure that gravel, salmon and our clean water resources are all valued in the discussion.

Conclusion

Groundwater in the Kenai lowlands is directly affected by gravel pits and is hydrologically connected to water needed by people and salmon. The Borough has a responsibility to protect this delicate balance of groundwater as a limited resource in relation to humans and salmon on Alaska's Kenai Peninsula Lowlands.

Please let me know if you have any questions regarding these comments. Thank you.

Hal Shepherd, Principal

Water Policy Consulting, LLC

P.O. Box 15332

Fritz Creek, AK 99603

halshepherdwpc@gmail.com

www.waterpolicyconsulting.com

(907)491-1355

WPC is located in Homer, Alaska on the traditional lands of the Dena'ina, Alutiiq and Sugpiaq people of Alaska's southcentral region which have been in community here long before the occupations of settler culture, past and present.

COMMENTS FROM LYNNDA KAHN ON Ordinance 2022-36

21.29.015. Material extraction exempt from obtaining a permit.

A. Material extraction which disturbs an area of less than one acre that is not in a mapped flood plain or subject to 21.29.010(B), does not enter the water table, and does not cross property boundaries, does not require a permit. There will be no excavation within 32 feet of a lot line.

Comment – There can be a lot of variability in the water table depending on the time of year you dig the test holes, and the substrate being affected, so a gravel operator can conceivably use this to their advantage. How does the Borough know whether or not a gravel operator ever enters the GW table during the permit term? Is this self-reported or does the Borough make occasional site inspections to ensure extraction never reaches the water table?

Also, what criteria have been used to justify 32-ft? Depending on the depth of excavation at 32-ft from any lot line, if one accounts for the very real likelihood of erosion over time, 32-ft does not appear adequate.

C. A prior existing use under KPB 21.29.120 does not require a material extraction permit. Notwithstanding the foregoing, on or before January 1, 2026, a prior existing use under KPB 21.29.120 must: (1) provide a reclamation plan under KPB 21.29.060 that is approved by the planning director or designee; and (2) come into compliance with the buffer zone requirements under KPB 21.29.050(A)(1).

Comment - Requiring a Reclamation Plan is not an onerous request, and the deadline of 2026 seems unwarranted. Since we are only just now approaching Jan. 2023, I recommend a more reasonable deadline of Jan. 1, 2025, which is ample time for any prior existing use operator to develop a Plan.

21.29.020. Types of permits available.

A. Counter permit. A counter permit is required for earth material extraction which disturbs more than one acre and less than 10 cumulative un-reclaimed acres. Material processing, screening, or crushing, and material extraction within four feet of the seasonal high-water table is prohibited under a counter permit.

Comment - What steps would be required to ensure any authorized activities remain at least 4-ft or more above the seasonal high-water table? How would the Borough know, at any given time, whether or not this requirement is not being violated throughout the permit term? Is this self-reported or would the Borough make occasional site inspections to ensure extraction never reaches the 4-ft mark?

B. Conditional land use permit. A conditional land use permit (CLUP) is required for the following types of earth material extraction or uses:

1. Earth Materials Extraction CLUP. An Earth Materials Extraction CLUP is required for any material extraction which disturbs 10 or more cumulative acres. Material processing, screening or crushing, or extraction within four feet of the seasonal high-water table is prohibited under this permit. The standard conditions set out in KPB 21.29.050 are applicable to this type of CLUP.

Comment - What steps would be required to ensure any authorized activities remain at least 4-ft or more above the seasonal high-water table? How would the Borough know, at any given time, whether or not this requirement is not being violated throughout the permit term? Is this self-reported or would the Borough make occasional site inspections to ensure extraction never reaches the 4-ft mark?

8. A site plan, prepared by a qualified independent civil engineer licensed and active in the State of Alaska to include the following:

B. In addition to the requirements in subsection (A) of this section, all activity must be conducted in compliance with state or federal regulations governing the items listed below. Written documentation of compliance with these regulations is not required. Complaints received by the borough of violations of requirements within this section will be forwarded to the appropriate agency for enforcement, this includes but is not limited to:

1. Air quality.

2. Water quality. EPA or ADEC regulations controlling spills, spill reporting, storage and disposal of oil, anti-freeze and hydrocarbons.

Comment – KPB should be more explicit and cite exactly which regulations they are referring to, e.g. chapters/sections, so there is no confusion.

3. Hazardous Materials. Use and storage of hazardous materials, waste and explosives.

a. EPA regulations controlling use of hazardous materials must be followed;

Comment – KPB should be more explicit and cite exactly which regulations they are referring to, e.g. chapters/sections, so there is no confusion.

One final comment – As you are aware, Arsenic is present in many areas on the Kenai Peninsula. As such, exposing buried soils to a different environment could result in oxidation and transport of Arsenic. Minerals, such as arsenic, could oxidize when exposed, and could change the chemistry in the water. Groundwater chemistry can greatly influence the mobility of Arsenic in groundwater.

Resolution 2022-2

Recommendations Regarding

Kenai Peninsula Borough Ordinance 2022-36

Whereas, the Kenai River Special Manage Area Advisory Board was created by the Legislature for the purpose of advising the Alaska Department of Natural Resources, Division of Parks, other state and federal agencies, the Kenai Peninsula Borough and other municipalities regarding matters affecting the Kenai River Special Management Area, and

Whereas, the Kenai Peninsula Borough is enacting Kenai Peninsula Borough Ordinance 2022-36 pertaining to earth materials extraction and processing sites, and

Whereas, the Board has reviewed and considered the current draft and proposed amendments offered by members of the Assembly and public comments:

Therefore, the Board respectfully offers the following comments for consideration:

21.29.029. This section allows an applicant to get a Counter permit without public notice for parcels up to 10 acres. The Board opposes that amount as being too large and believes 2 and one-half acres is appropriate.

Ground Water. In considering handling of water on the sites, the regulation should include surface water and surface water drainage as well as underground water levels.

Treatment of Existing Pits. The Board is concerned about exempting existing pits. The Board recommends that the Borough undertake the active management of these pits to ensure the owners implement a reclamation plan and conform to standards. The State of Alaska does not have an adequate budget to ensure existing pit owners comply with reasonable standards.

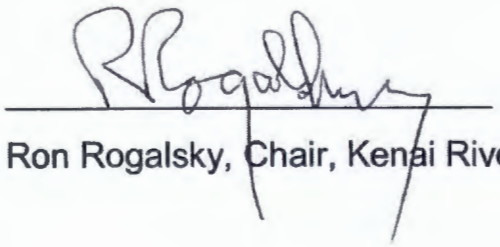
Buffer Zones. The Board believes the proposed 32 foot buffer from edge of the applicant's property boundary to adjacent properties should be increased to 100 feet.

In addition, the Board specifically recommends a buffer of 1,000 feet from any existing developed facility within KRSMA. A developed facility means any campground, boat launch, parking facility, signage or access roads developed or built by State Parks. This distance will better alleviate dust and noise.

Hours of Operation for Pits and Processing Plants. The hours of operation should be limited to 8:00 a.m. to 5:00 p.m. for six days per week so no activity takes place on Sunday.

Necessary Monitoring and Further Research. The Board recommends sufficient budget be allocated for supervision of newly permitted and existing pits. Moreover, the Board recommends the Borough fund necessary scientific research to better assess ground water flows and potential solutions to prevent pollution.

Approved: December 8, 2022



Ron Rogalsky, Chair, Kenai River Special Management Area Board

Warner, Avery

Subject: FW: <EXTERNAL-SENDER>Gravel pits

Dear Assembly members,

I am a lifelong Alaskan resident, I own a local business and home in Sterling, Alaska. I am very concerned about the proposed changes to the gravel pit rules.

The proposed changes go against both science and common sense. The changes clearly make the financial success of gravel pit owners a priority far and above the safety of all our residents drinking water and the health of our rivers and fish. The livelihood of the entire peninsula and my community relies on fishing and unspoiled natural beauty- not gravel development. My partner is a fishing guide, I am an artist. We live here because of the beautiful scenery and world renowned fishing, it's also why we have millions of tourists every year-they don't come for the gravel pits and they won't keep coming back if we poison the ground water and river and destroy the natural beauty. This is a tourism economy. Land should be developed very carefully here. This place is incredibly special, it's your job as representatives of the people and communities here to keep it that way.

Please keep the surface and groundwater provisions we have in place.

Keep the fairness provision in the ordinance. Small communities need a voice, not to be silenced by the wealthiest residents (the largest house in my whole neighborhood is owned by a gravel pit owner, he lives in a gated mansion with a full runway and a lawn that looks like a golf course).

Please keep a drinking water safety buffer of at least 1000ft on all sides- as is very clearly required for safety by scientific studies. Allowing for only a 500ft buffer on one side (when this is a clear known risk and twice that amount is required) foolishly threatens the health and safety of our community.

The new ordinance allows for careless, unsafe and unsightly land development without community input-for no other reason than simple greed. Please vote against the new gravel pit ordinance.

Thank you for your time,
Laura Dewey

Sent from my iPhone

Warner, Avery

Subject: FW: <EXTERNAL-SENDER>Public Comment Letter Re: An Ordinance Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures

Attachments: KP-CISMA Comment Letter Gravel Ordinances_12.13.2022.pdf

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From: Katherine Schake <katherine@homerswcd.org>
Sent: Tuesday, December 13, 2022 9:44 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Cc: KP-CISMA <kenaipeninsula.invasives@gmail.com>
Subject: <EXTERNAL-SENDER>Public Comment Letter Re: An Ordinance Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures

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To Whom It May Concern,

Please accept this public comment letter on behalf of the Kenai Peninsula Cooperative Invasive Species Management Area regarding the ordinances amending material extraction site permits and related activities.

This is specifically for the KPB Assembly and Lands Committee, who is meeting tonight (Dec. 13th) to review the ordinance amending: KPB 21.29, KPB 21.25, and KPB 21.50.055.

Thank you,
Katherine
--

Katherine Schake
Invasive Species Program Manager
Homer Soil & Water Conservation District
www.homerswcd.org
432 E. Pioneer Ave
Homer, AK 99603
(907) 205-0235

KPCISMA
kenaiinvasives.org

Warner, Avery

From: Turner, Michele
Sent: Tuesday, December 13, 2022 6:18 PM
To: Warner, Avery
Subject: FW: New Public Comment to Assembly Members

Public comment for O2022-36. Please also update the subcommittee webpage. Thank you!

From: Kenai Peninsula Borough <webmaster@borough.kenai.ak.us>
Sent: Tuesday, December 13, 2022 5:08 PM
To: BoroughAssembly <Borough-Assembly@kpb.us>; Mayor's Department <MayorDepartmental@kpb.us>
Cc: Turner, Michele <MicheleTurner@kpb.us>
Subject: New Public Comment to Assembly Members

Your Name: Mike Patrick

Your Email: mlpatrick335@yahoo.com

Subject: Screening vs crusher noise levels

Message:

https://www.cdc.gov/niosh/mining/userfiles/works/pdfs/naosa.pdf , this link will give the assembly some observation data as to the actual noise levels of crushers and screeners. According to these observations there is not a great deal of difference between the two when noise levels are measured. At you work session on zoom someone claimed a significant difference. 12/13/2022.

Noise assessment of stone/aggregate mines: six case studies

E.R. BAUER AND D.R. BABICH

Abstract

The U.S. National Institute for Occupational Safety and Health (NIOSH) is conducting a cross-sectional survey of equipment sound levels and worker noise exposures in the stone/aggregate mining industry. Six stone/aggregate mines (three surface and three underground) were recently surveyed, and the findings are presented here. The surveys consisted of sound-level measurements conducted around various equipment and machinery (including stone processing and crushing equipment) and full-shift dose measurements to determine worker noise exposures. The findings identify the equipment and machinery that are likely to cause worker overexposures and identify the workers found to be experiencing overexposures. In addition, the benefit of cabs in reducing mobile equipment operator noise exposure is discussed.

Introduction

Exposure to noise and noise-induced hearing loss (NIHL) continues to be problematic for the U.S. mining industry. The problem is particularly severe because large, noisy equipment dominates the industry. Studies have shown that 70 percent to 90 percent of all miners have NIHL great enough to be classified as a hearing disability (NIOSH, 1996). To address the issue, the U.S. Mine Safety and Health Administration (MSHA) published Health Standards for Occupational Noise Exposure (*Federal Register*, 1999). The new regulations include the adoption of a hearing-conservation program similar to that of the U.S. Occupational Safety and Health Administration (OSHA), with an "Action Level" of 85 dB(A) eight-hour time weighted average (TWA8) and a permissible exposure level (PEL) of 90 dB(A) TWA8. The regulations also state that a miner's noise exposure shall not be adjusted because of the use of personal hearing protection, and that all feasible engineering and administrative controls must be used for noise exposure reduction.

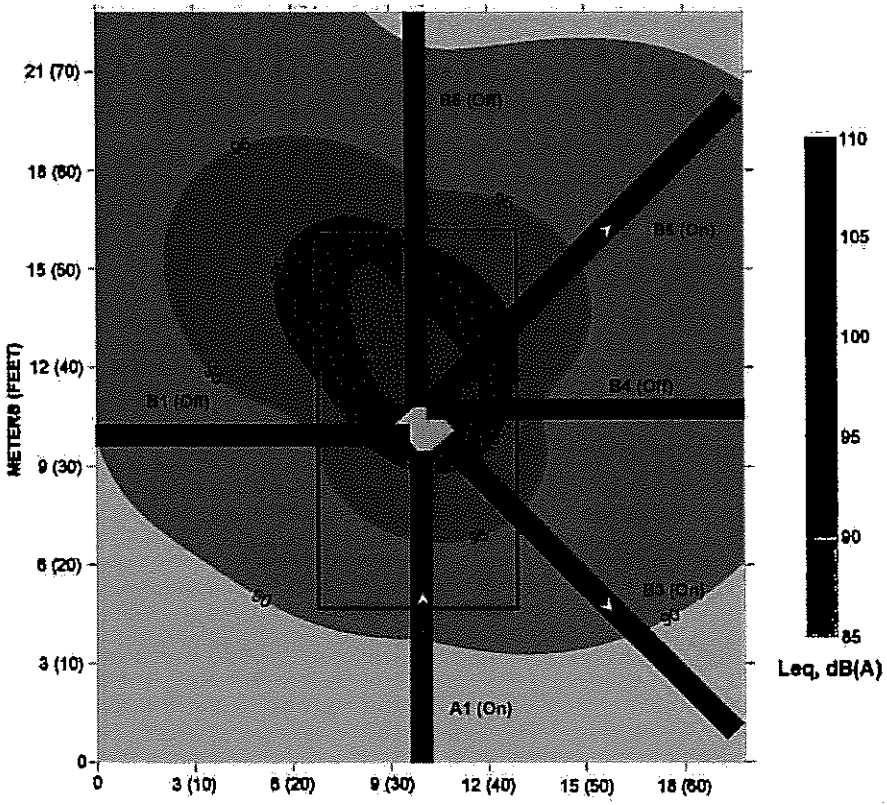
The U.S. National Institute for Occupational Safety and Health (NIOSH) has responded to this problem in a number of ways, including conducting a cross-sectional survey of noise sources and worker noise exposures in the mining industry. Initially, these surveys were conducted in surface and underground (continuous and longwall) coal mines, in coal preparation plants and in sand and gravel mines. Recently, this has included surveying stone (aggregate) mining and crushing and processing facilities. The mine sites were selected primarily through personal contacts within the mining industry. Participation in the surveys was voluntary for the mine sites, but 100 percent of the mines contacted participated. All the surveys were completed between May and October 2005. The surveys are designed to monitor worker dose, to measure equipment sound levels and to understand the noise source/worker dose relationship. This is accomplished through full-shift dosimetry readings, equipment noise profiles and, where possible, worker task observations.

Instrumentation and data collection

Sound levels in the mines and processing facilities were measured using a Quest Model 2900 sound level meter (SLM) and Brüel & Kjær 2260 Investigator. The instruments were mounted side by side on a tripod, with the microphones 1.5 m (5 ft) from the floor (approximately ear height), angled at 70° from horizontal (in accordance with manufacturers' recommendations) and facing the noise source. An A-weighted equivalent sound pressure level (Leq) and one-third linear octave band frequencies were recorded at each location. Leq, which for these studies was the parameter of interest, is the average integrated sound level accumulated during a specified measurement period using a 3-dB exchange rate. The 3-dB exchange rate is the method most firmly supported by scientific evidence for assessing hearing impairment as a function of noise level and duration (NIOSH, 1998). A slow response rate with an averaging time (length of measurement) of 30 seconds was also employed. Measurements were made around the fans, stationary equipment and processing facilities. Both near and far field measurements were recorded. The term "near" describes measurements made

FIGURE 1

Sound profile plot for the primary screening tower.



within 1 to 2 m (3 to 6 ft) of the noise source while the "far" measurements were those taken farther than 2 m (6 ft) from the source.

Worker noise exposure was monitored using Quest Q-400 noise dosimeters. The dosimeters were set to monitor an MSHA permissible exposure level (PEL) of 100 percent or an eight-hour time-weighted average (TWA8) of 90 dB(A). (Specific parameters of this setting include: A-weighting, 90 dB Threshold and Criterion Levels, 5-dB Exchange Rate, Slow Response and a 140 dB Upper Limit.) Where possible, noise dose was recorded inside and outside mobile equipment to determine efficiency of cabs to prevent operator noise exposure from engine and operational noise.

Case studies

Case study No. 1 — surface limestone mine

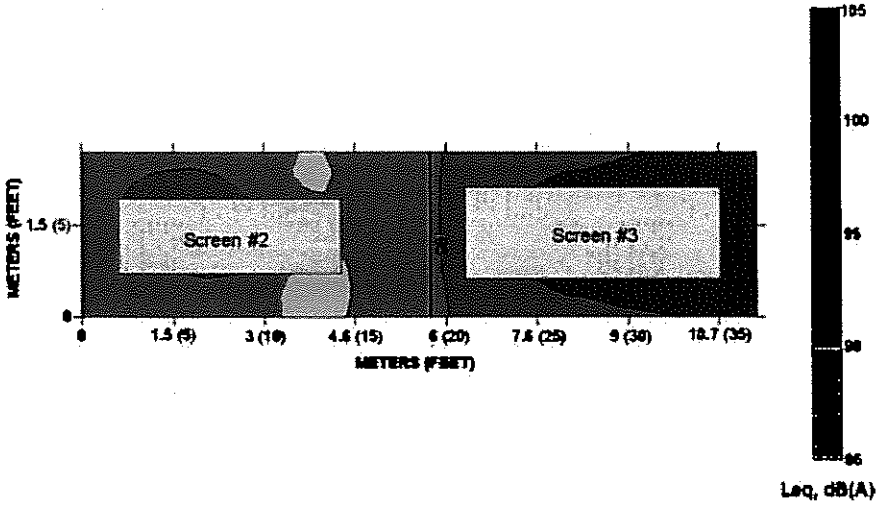
Mine characteristics: This study site consisted of one surface pit and accompanying rock processing facilities that mine and process approximately 1.13 Mt (1.25 million st) annually of crushed stone and lime products. Mining consists of bench drilling and blasting (by a contractor), and mining the limestone rock. The blasted rock is mined using front-end loaders (FELs) loading into 45.4-, 49.9- or 54.4-t- (50-, 55- or 60-st-) capacity haul trucks for removal from the pit. The haul trucks dump into a primary crusher located near the pit entrance. After passing through the primary crusher, the rock is transported by belt to the crushing and screening facilities, resulting in the desired product sizes. The daily mining and processing operations average 5.44 to 6.35 kt (6,000 to 7,000 st) of rock. Approximately 25 workers are located in the surface quarry, and 10 are located in the plant (crushing facilities). The worker classifications include FEL operator, haul-truck operator, primary crusher operator, control-room operator, plant operator, plant helper laborer and water-truck operator.

Equipment and plant sound levels: Table 1 lists the range of sound levels measured around various processing equipment and indicates that the sound levels varied greatly throughout the plants. The highest sound levels were recorded at the primary screening tower, surge tunnel, secondary crusher, secondary screening tower and the fourth level of the agricultural lime crusher. Most of the recorded readings were 93 dB(A) or less. A sound profile plot for the primary screening tower is illustrated in Fig. 1. The measurements ranged from 87 to 96 dB(A) outside the building and 105 to 107 dB(A) inside the screening tower.

Worker exposure: Worker noise exposure was collected using dosimeters worn by the workers for the full (10-hr) shift. Six occupations that were surveyed included the operators of haul trucks, front-end loaders, primary crusher and the control rooms. Plant helpers and operators were also monitored. Results of the worker dose measurements are shown in Table 2. In addition to worker dose, a dosimeter was placed outside the cab on the front

FIGURE 2

Sound profile plot for Telsman screens 2 and 3.



end loaders (FEL) and on the haulage trucks. This provided the exposure that would occur without the protection of cabs. Although the mining and processing equipment sound level measurements suggest that there were areas that are noisy and workers could be over-exposed to noise, because the workers are in cabs or control rooms, all the workers that were monitored experienced doses well below the MSHA PEL of 100 percent (or a TWA of 90 dB(A)).

Case studies No. 2 and No. 3 — surface granite mines

Mine characteristics: This complex consisted of two surface pits and rock processing facilities that mine and process approximately 1.36 Mt (1.5 million st) annually of crushed stone products. Mining consists of contractor-completed bench drilling and blasting, and mining of the granite gneiss rock. The blasted rock is mined using front-end loaders (FELs) loading into 36.3-t- (40-st-) capacity haul trucks for removal from the pit. The haul trucks dump into a primary crusher located near each pit. After passing through the primary crusher, the rock is transported by conveyor belt to the crushing and screening facilities, resulting in the desired product sizes. Approximately 33 workers are located at the combined surface quarries and crushing facilities. The worker classifications involved in the mining and processing operations include operators of FELs, haul trucks, primary crusher and processing plant.

Equipment and plant sound levels — Case study No. 2: The processing facilities consisted of three stationary plants (A, B and C). Measurements were taken around transfer points, belts, crushers and screens, control rooms, miscellaneous buildings and at the primary crusher. Table 3 lists the results of the sound-level measurements around the stationary equipment and indicates that the sound levels varied greatly throughout the plants. The locations where high sound levels (greater than 90 dB(A)) were recorded included the screens and crushers in Plant A, the screening tower and primary crusher in Plant B and the screen, crusher and tunnel in Plant C. An example of

Table 1

Sound level measurements, case study No. 1, surface limestone.

Plant	Equipment	Location	Range Leq, dB(A)
Primary	Screening tower B(N)	Inside	105-107
Primary	Screening tower B(N)	Outside	87-96
Primary	Surge tunnel, surge to sec. crusher	In tunnel	88-101
Secondary	Secondary crusher	Ground level	89-93
Secondary	Secondary crusher	Upper level	97-99
Secondary	Compressor bldg.	Inside, door open	89
Secondary	Compressor bldg.	Inside, door closed	90
Secondary	Compressor bldg.	Outside	91
Secondary	152.4 cm (60 in.) hydrocyclone crushers	Ground level	82-90
Secondary	152.4 cm (60 in.) hydrocyclone crushers	Upper level	84-95
Secondary	Control room	Inside control room	72
Secondary	Screening tower E(N)	Inside	100-106
Ag Lime	Screening tower and control room	Second level	86-99
Ag Lime	Screening tower and control room	Third level	90-93
Ag Lime	Screening tower and control room	Fourth level	91-93
Ag Lime	Screening tower and control room	Inside control room	65
Ag Lime	Screening tower and control room	Fifth level	91-92
Ag Lime	Screening tower and control room	Sixth level	91-93
Ag Lime	Screening tower and control room	Seventh level	91
Ag Lime	Crusher	Ground level outside	76-90
Ag Lime	Crusher	Second level	87-89
Ag Lime	Crusher	Third level	88-89
Ag Lime	Crusher	Fourth level	81-102
Ag Lime	C3 belt tunnel	Inside	77-88
Quarry	Primary crusher	Inside control room	67
Quarry	Primary crusher	Outside	72-95
Primary	Primary plant	Area (No. 71,72,74)	74-79
Secondary	Secondary plant	Area (No. 64-70,83,84)	72-81
Ag Lime	Ag lime plant	Area (No. 73,75-82)	67-83

Table 2

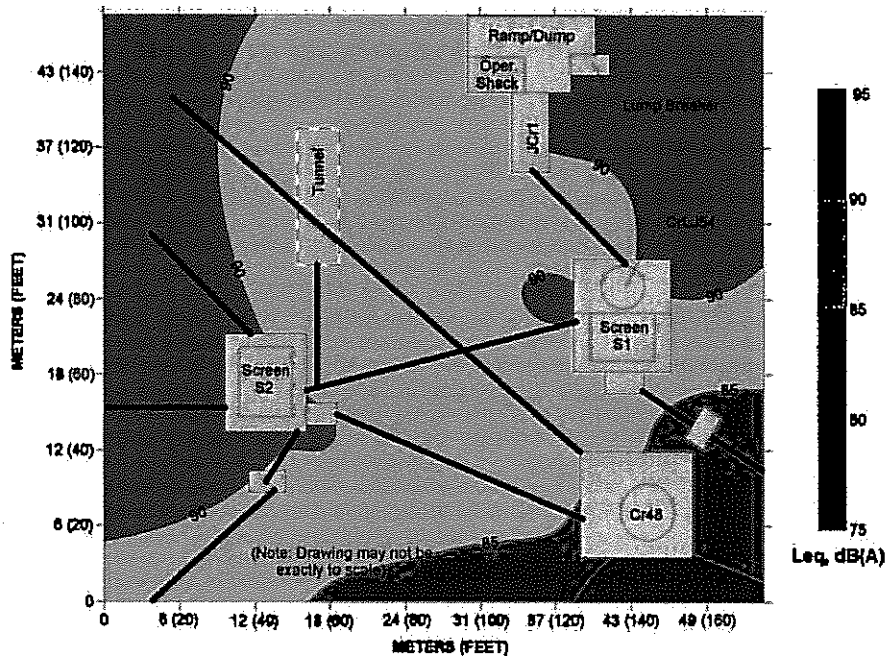
Worker exposure, case study No. 1.

Occupation	Number of recorded doses	Worker range MSHA PEL dose, %	Outside cab range MSHA PEL dose, %
Haul truck operator	3	2.7-14.8	65.9-114.1
FEL operator	3	0.7-41.3	59.0-65.6
Primary crusher operator	1	13.4	NA
Plant operator	1	0.9	NA
Plant helper	3	17.5-33.4	NA
Ag lime control room operator	1	8.2	NA

NA = not applicable

FIGURE 3

Sound profile plot for portable plant.



the sound levels measured is illustrated in Fig. 2, which is the sound profile plot for screens 2 and 3 in Plant A. Sound levels from 88 to a little more than 100 dB(A) were recorded.

Worker exposure – Case study No. 2: Workers wore dosimeters for a full shift (10 to 10.5 hrs) to provide noise-exposure data. Dosimeters were also placed outside the cabs of the mobile equipment. Table 4 lists the worker doses for the employees at the site. No worker experienced a dose above the MSHA PEL of 100 percent. Table 4 illustrates that for the mobile equipment operators, a reasonable amount of protection from the exterior noise generated by the engines and equipment operation is provided by the cabs. Only the operator of Truck 68 had a dose near 100 percent (98 percent), which was the result of the truck's outside dose of 396 percent and some unknown engine, transmission or exhaust noise problem that was able to enter the cab.

Equipment and plant sound levels – Case study No. 3: Measurements were taken in the plant known as the portable plant. Forty-six sound level measurements were taken around the transfer points, belts, crushers and screens, the control room and the primary pit crusher. Table 5 lists and Fig. 3 illustrates the results of the sound-level measurements around the stationary equipment. The data indicate that the sound levels varied greatly throughout the portable plant. The locations where high sound levels (greater than 90 dB(A)) were recorded included Screens S1 and S2 and Crushers JCr1 and CrLJ54.

Worker exposure – Case study No. 3: Workers wore dosimeters for a full shift (9.5 to 10.5 hrs) to provide noise exposure data. Table 6 lists the worker doses for the employees at the site. No worker experienced a dose above the MSHA PEL of 100 percent. Table 6 illustrates that, for the mobile equipment operators, the cabs are providing sufficient protection from the exterior noise generated by the engines and equipment operation.

Table 3

Sound level measurements, case study No. 2, surface granite.

Plant	equipment	Location	Range Leq, dB(A)
A	Belts, transfer points, bins	Ground level	78-91
	Crusher CrT57	Outside	94-97
	Crusher CrLJ45, Eljay	Outside	98-99
	Screen #S2, Telsman	Outside	88-99
	Screen #S3, AEI	Inside	100-102
	Ortner wash plant, W1	Outside	81-85
	Control room	Inside	74
	Control room	Outside	93
B	Belts, transfer points, bins	Ground level	72-88
	Screening tower, screen #S1	Inside	98-112
	Primary jaw crusher, B JCr1	Outside control room	93
	Primary jaw crusher, B JCr1	Inside control room	75
	Primary jaw crusher, B JCr1	Lower levels	88-105
	Electric room	Inside	58
	Oil and pump room	Inside	64
C	Belts, transfer points, bins	Ground level	75-96
	Crusher CrT52	Outside	99-102
	Screen #S6	Outside	85-94
	Electric room	Inside	68
	Tunnel, C10B belt	Inside tunnel	85-97

Case studies No. 4 and No. 5 — underground limestone/sandstone mines

Mine characteristics: This operation consists of two underground mines and a common rock processing facility. Mining consists of face drilling, shooting and mining the main limestone bench, followed by drilling, shooting and removing the limestone floor rock. In addition, in some areas, the sandstone below the limestone is also mined. The blasted rock is loaded by front-end loader into 45.4- or 54.4-t- (50- or 60-st-) capacity haul trucks for removal from the mine. The haul trucks dump into one of two primary crushers, which are located midway between the two mines' portals. After passing through

the primary crusher, the rock moves by conveyor belt either to the secondary crushing facilities or directly to a stockpile for loading and sale to end users. Rock sent to the secondary crushing facility passes through a series of crushers and screens, resulting in the desired product sizes. The combined annual production from both mines is about 1.36 Mt (1.5 million st) of mostly crushed limestone and some sandstone. A total of 43 workers are located at the site, working two shifts per day. The worker classifications include operators of FELs, haul trucks, jaw crusher, drill, scaler, plant and water truck. Other classifications include supervisor, mechanic, blaster and blaster helper, laborer and utility man.

Table 4

Worker exposure, case study No. 2.

Occupation	Number of recorded doses	Worker range MSHA PEL dose, %	Outside cab range MSHA PEL dose, %
Haul truck operator (65,66,68)	3	3.0-98.0	111.0-396.1
FEL operator (27,32,34)	3	0.4-28.3	33.0-284.8
Primary crusher operator (B J Cr1)	1	2.0	NA
Bin truck operator (7)	1	10.2	22.2

NA = not applicable

Equipment and plant sound levels: Measurements were taken around the main and auxiliary fans, primary jaw crushers (old and new), semi-stationary equipment and near the crushers and screens located at the secondary crushing facilities. Table 7 lists the results of the sound level measurements around the stationary and semi-stationary equipment and indicates that in most locations, sound levels greater than 90 dB(A) were present. The highest sound levels were recorded near the fans and the No. 1 cone crusher located in the secondary crushing plant. The only locations where sound levels were consistently less than 90 dB(A) were in the primary crusher operator's control booth, in the secondary crusher operator's control room, in the electrical room below the secondary crusher control room and above the sand plant.

The underground face equipment included a Tamrock floor drill and Cannon face drill (both diesel) and a Gradall scaler. Sound levels around these three pieces of equipment were high, ranging from 89 to 103 dB(A). However, the sound level measured inside the enclosed cab of the Cannon face drill was only 83 dB(A). Figures 4 and 5 include a photograph and a sound profile plot of a JOY Axivane 18.8 kw (25-hp) fan. The sound levels near the fan ranged from 90 to 106 dB(A). Another example is illustrated in Figs. 6 and 7, which are a photograph and sound contour plot for a Tamrock Ranger 500 floor drill. Figure 7 illustrates that sound levels up to 102 dB(A) were recorded near the drill.

Worker exposure: Workers at the mine wore dosimeters for a full shift (10 to 10.5 hrs) to provide noise exposure data. Table 8 lists the worker doses for both surface and underground employees. In all cases, except one of the laborers, no worker experienced a dose above the MSHA PEL of 100 percent. The one laborer experienced a dose above 100 percent because he was operating an air wrench while installing sheet metal on the protective canopy at the entrance to mine No. 2. His exposure resulted from a combination of noise sources that included the air wrench, compressor and

FIGURE 4

JOY Axivane 18.6 kw (25-hp) fan (Bauer and Babich,



Table 5

Sound level measurements, case study No. 3, surface granite.

Plant	Equipment	Location	Range Leq, dB(A)
Portable	Belts, transfer points, bins	Ground level	77-94
	Crusher Cr1,J55, El-Jay	Outside	92-97
	Screen #S1	Outside	88-91
	Screen #S2	Outside	97-104
	Primary crusher, P JCr1	Outside	88-92
	Control room	Inside	71

Table 6

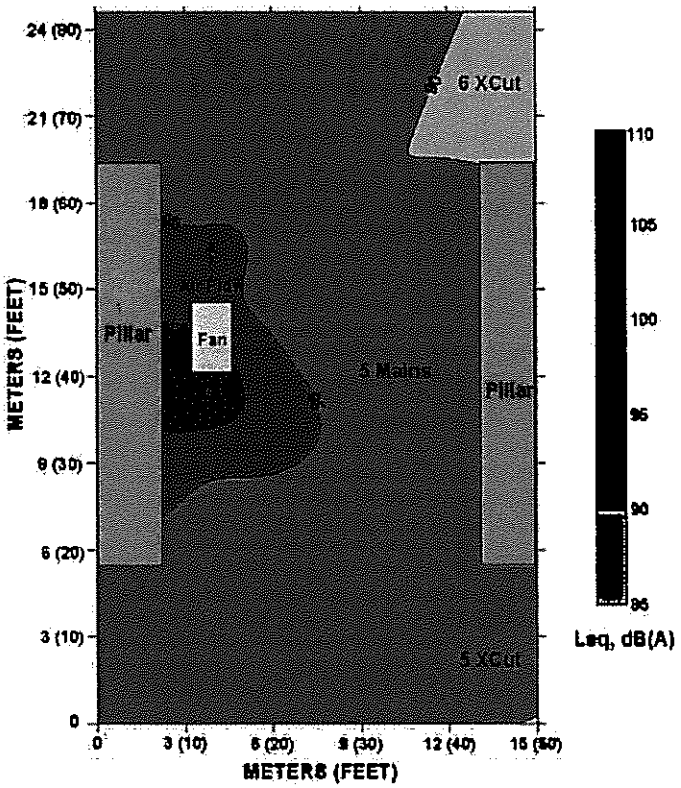
Worker exposure, case study No. 3.

Occupation	Number of recorded doses	Worker range MSHA PEL dose, %	Outside cab range MSHA PEL dose, %
Haul truck operator (69)	1	11.7	118.2
FEL operator (24, 25)	2	13.5-25.4	154.4-159.0
Primary crusher operator (P J Cr1)	1	20.4	NA

NA = not applicable

FIGURE 5

Sound profile plot for Joy Axivane 25-hp fan.



mobile equipment entering and exiting the mine. Table 8 also illustrates that for the mobile equipment operators the cabs are providing a reasonable amount of protection from the exterior noise generated by the engines and equipment operation.

Case study No. 6 — underground limestone mine

Mine characteristics: This operation consists of an underground mine and surface rock-processing facilities. Mining consists of face drilling, shooting and mining the main bench, with some mining of the floor rock. Using front-end loaders, the blasted rock is loaded into 31.8-t- (35-st-) capacity haul trucks for transport from the mine to the primary crusher. After passing through the primary crusher, the rock is transferred by belt to the crushing facility consisting of a shaker, screen and/or cone crusher to obtain the desired product sizes. Annual production for this operation is about 317.5 kt (350,000 st). From 10 to 12 workers are located at the site, working one shift per day. The worker classifications include the operators of FELs, haul trucks, crusher, drills, scaler and water truck. Other classifications include mechanic and blaster and blaster helper.

Equipment and plant sound levels: Measurements were taken around the primary jaw crusher, semi-stationary equipment and near the crushers and screens located at the crushing facilities. Table 9 lists the results of the sound-level measurements. The results indicate that a wide range of sound levels were present. In the mine, the sound levels were consistently less than 90 dB(A) around

Table 7

Sound level measurements, case study No. 4 and No. 5, underground limestone and sandstone.

Mine	Equipment	Location	Range Leq, dB(A)
No. 1	Fan systems 66HPAV2S, 1.5 m (5 ft) aux. fan	15 mains at 25 XCut	88-104
No. 1	Main fan (1.5 m (5 ft exhaust))	17 XCut in B mains	75-84
No. 1	Joy M96-50D exhaust fan	G mains at 24 XCut	86-109
No. 1	Tamrock ranger 500 floor drill	19 XCut in 9 mains	91-102
No. 2	Main fan (3.7 m (12 ft intake))	7 Mains	95-101
No. 2	Main fan (2.4 m (8 ft exhaust))	1 XCut, in 1 main	84-109
No. 2	Joy Axivane M36-26-1770 fan	5 Main at 5 XCut	90-106
No. 2	Oldenburg cannon face drill	9 XCut in 7 mains	93-103
No. 2	Gradall 5110 scaler	8 Mains at 5 XCut	89-98
Surface	Old jaw crusher (outside)	Outside control booth	83-102
Surface	Old jaw crusher (inside control booth)	Inside control booth	82
Surface	New jaw crusher (outside)	Outside control booth	84-102
Surface	New jaw crusher (inside control booth)	Inside control booth	74
Sec. Crusher	No. 1 cone crusher (2.4 m (8 ft Nordberg))	Bottom of main belt	101-107
Sec. Crusher	No. 2 cone crusher (2.4 m (8 ft))	Below main screen	99-101
Sec. Crusher	No. 3 cone crusher (Symons portable)	Adjacent to No. 2 crusher	95-98
Sec. Crusher	No. 4 lower crusher (1.8 m (6 ft))	Middle of sec. crush. plant	90-96
Sec. Crusher	Main 2.4 x 6.1 m (8 x 20 ft) screen	Above No. 2 crusher	90-99
Sec. Crusher	No. 1 & 2 double screens	Middle of sec. crush. plant	86-98
Sec. Crusher	Sand plant	Bottom of sec. crush. plant	77-98
Sec. Crusher	Control room (outside)	Outside control room	83
Sec. Crusher	Control room (inside)	Inside control room	69
Sec. Crusher	Electrical room (inside)	Below control room	75

the bucket truck and more than 90 dB(A) near the water pump, scaler and face drill. The face drill had the highest measured sound levels, ranging from 86 to 105 dB(A) (Fig. 8). In the processing facilities, sound levels above 90 dB(A) were recorded nearly everywhere except in the jaw crusher control room and at the belt drives (Fig. 9).

Worker exposure: Workers at the mine wore dosimeters for a full shift (9.5 to 10.5 hrs) to provide noise exposure data. Table 10 lists the worker doses for both surface and underground employees. In all cases, no worker experienced a dose above the MSHA PEL of 100 percent. Table 10 also illustrates for the mobile equipment operators that the cabs are providing a reasonable amount of protection from the exterior noise generated by the engines and equipment operation.

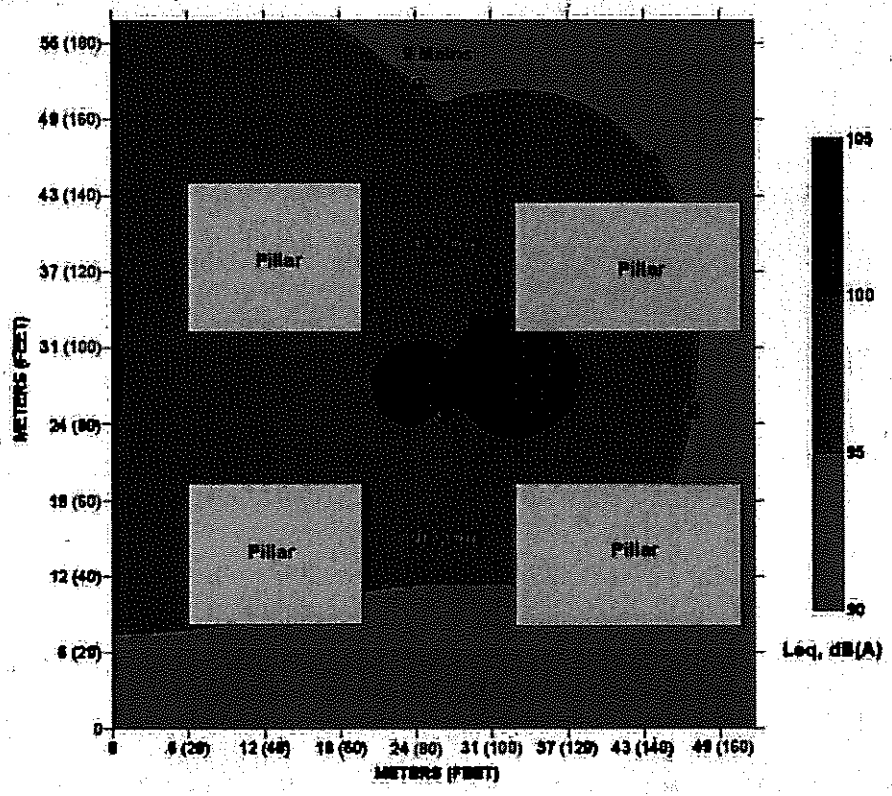
FIGURE 6

Tamrock floor drill.



FIGURE 7

Sound profile plot for Tamrock floor drill.



Implications for exposure reduction

The sound level measurements suggest that there are areas that are noisy and could subject workers to overexposure to noise. Nearly all workers monitored experienced doses well below the MSHA PEL of 100 percent (or a TWA of 90 dB(A)), even though equipment sound levels were generally above 90 dB(A). These exposure results do not suggest that the workers are "safe" from noise-induced hearing loss, only that the workers are limiting their time of exposure near these high noise sources. Health surveillance of hearing by use of audiometry and exposure monitoring is essential, both base-line and after noise exposure if NIHL is to be reduced in the mining industry.

One laborer experienced a dose of 119 percent while using an air wrench to install a protective canopy at the portal of an underground mine. Mobile equipment and crusher operators were protected from overexposure to noise as illustrated by the results of the dose measurements because the cabs and control rooms had sufficient acoustical treatments to prevent equipment sound levels from reaching the operators. Although only one worker was overexposed, the prevalence of noisy equipment suggests that engineering and administrative noise controls could be used to reduce sound levels and noise ex-

Table 8

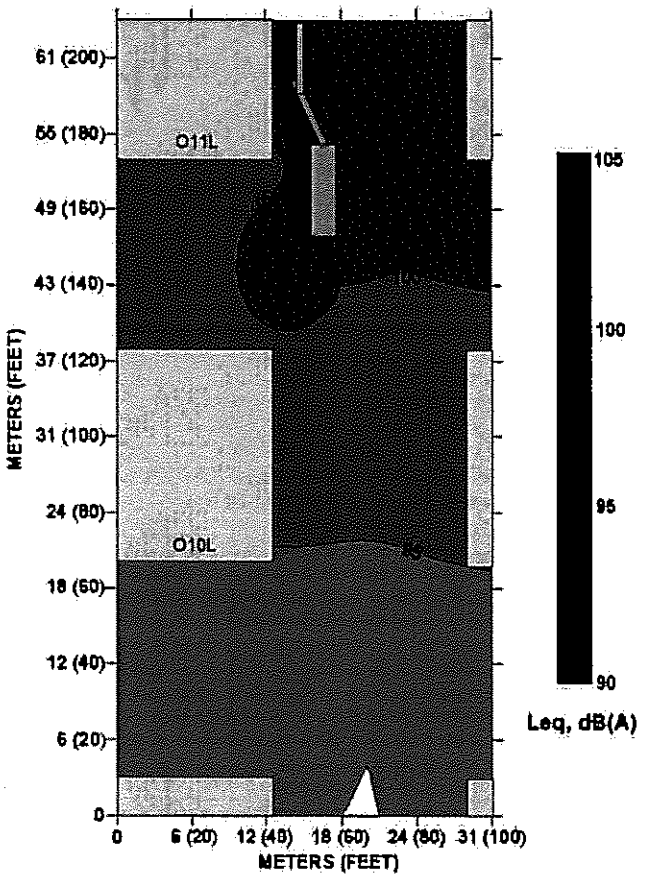
Worker exposure, case studies No. 4 and No. 5.

Occupation	Number of recorded doses	Worker range MSHA PEL dose, %	Outside cab range MSHA PEL dose, %
Haul truck operator	6	0.6-9.5	81.6-187.5
FEL operator	4	2.9-64.2	141.7-262.8
Drill operator	2	26.8-31.4	293.7-487.3
Scaler	2	1.1-1.20	187.8-209.0
Crusher operator	1	5.9	ND
Blaster/blaster helper	2	27.3-28.6	ND
Water truck operator	1	35.8	ND
Laborer	2	59.0-119.3	NA
Sec. crush. plant oper.	1	32.3	NA
Mechanic	1	8.9	NA

ND = not determined
NA = not applicable

FIGURE 8

Sound profile plot for Gardner Denver MK45H face drill.



posures. The use of acoustic material inside cabs, control rooms, screening towers and compressor buildings should be considered. Crushers and other stationary equipment may be addressed using mass-loaded barrier curtains and enclosures. Screen modifications can include acoustically treated decking and new suspension screens, as well. Underground fan systems should be equipped with silencers, muffler ducts, treated fan vanes and quiet motor technology (MSHA, 1999). Administrative controls such as job rotation, worker relocation and improved equipment operation can limit exposure to high sound levels and reduce worker noise exposures.

It would be prudent to restrict time spent in and around the crushing and screening facilities because sound levels as high as 112 dB(A) were recorded. Mobile and semi-mobile (such as drills) equipment operators should be required to keep all doors and windows closed while the equipment is in operation because outside doses up to 487 percent were measured.

All workers should be made aware of the sound levels around all equipment and in the processing plants and be instructed to utilize hearing protection based on NIOSH's recommended exposure limit (REL) of 85 dB, A-weighted, as an 8-hour time-weighted average (TWA8). Exposures at or above this REL are hazardous, creating an excess risk of developing occupational NIHL. For workers whose noise exposures equal or exceed 85 dB(A), NIOSH recommends proper use of hearing protection, among other assessment, training and prevention approaches. Any area that has a sound level of 85 dB(A) or higher has the potential to exceed the NIOSH REL depending on the exposure time (NIOSH, 1998). Because the length of exposure can vary and/or is not known prior to entering a high sound area, the potential adverse ef-

Table 9

Sound level measurements, case study No. 6, undergound limestone.

Mine/surface	Equipment	Location	Range Leq, dB(A)
Mine	Blaster's bucket truck	Adjacent to and around	76-81
Mine	Gorman-Rupp diesel water pump	Adjacent to and around	89-98
Mine	Gardner Denver MK45H face drill	Adjacent to and around	86-109
Mine	Gradall XL4300 II scaler	6.1-12.2 m (20-40 ft) away	89-94
Surface	Jaw crusher (upper level)	Outside control booth	91-99
Surface	Jaw crusher (lower level)	Below control room	89-93
Surface	Jaw crusher (control booth)	Inside control booth	73
Surface	Small Tyler double shaker screen	Adjacent to and around	104-111
Surface	Large Tyler screen	Adjacent to and around	94-103
Surface	Hazemag cone crusher	Adjacent to and around	96-102
Surface	Tunnel	Just inside by belt	93
Surface	No. 1 belt drive	Next to drive motor	89
Surface	No. 2 belt drive	Next to drive motor	101
Surface	No. 4 belt drive	Next to drive motor	85
Surface	No. 6 belt drive	Next to drive motor	94
Surface	No. 8 belt drive	Next to drive motor	85
Surface	No. 9 belt drive	Next to drive motor	81
Surface	No. 11 belt drive	Next to drive motor	82
Surface	Ground level	On ground	89-101

fects on a worker's hearing are also not known, and thus it makes sense to use hearing protection when in areas where the sound levels are 85 dB(A) or greater.

Finally, workers should realize that any exposure that results in an MSHA PEL dose above zero percent indicates that during their shift they encountered sound levels above 90 dB(A). Because each individual reacts differently to high noise, there is no assurance that a dose below the MSHA PEL of 100 percent is safe and will not cause hearing loss. In addition, when the TWA of a worker exceeds 85 dB(A), the MSHA Action Level is exceeded and the worker must be enrolled in a hearing conservation program. Therefore, wearing hearing protection is a good idea at all times while operating equipment or working in the crushing and screening facilities.

Table 10

Worker exposure, case study No. 6.

Occupation	Number of recorded doses	Worker range MSHA PEL dose, %	Outside cab range MSHA PEL dose, %
Haul truck operator	2	38.5 and 49.7	168.7 and 175.3
FEL operator (inside)	1	0.3	89.4
FEL operator (outside)	1	14.3	107.2
Drill operator	1	24.6	437.3
Scaler operator	1	50.2	162.3
Crusher operator	1	9.7	219.4
Blaster/Blaster helper	2	13.3 and 15.2	0.7

Summary

Stone (aggregate) mining can be noisy and can subject workers to overexposures if they are not in cabs or control rooms. Sound-level measurements indicted that screens, crushers, drills, fans and mobile equipment generate sound levels high enough to be potential sources of worker overexposure depending on time of exposure. Fortunately, exposure measurements revealed that nearly all workers were avoiding exposures as revealed by doses under the MSHA PEL of 100 percent. Only one laborer was overexposed, a result of operating an air wrench for much of his shift. It can be concluded that mine operators and workers are successfully avoiding noise exposures through a combination of training, hazard awareness, engineering noise controls and administrative noise controls. ■

References

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Federal Register, 1999, "Health Standards for Occupational Noise Exposure: Final Rule," Department of Labor, Mine Safety and Health Administration, 30 CFR Parts 56 and 57 et al., Vol. 64, No. 176, Sept. 13, pp. 49548-49634.

MSHA, 1999, "Noise Control Resource Guides: Surface Mining; Underground Mining; Mills and Preparation Plants," Dept. of Labor, Mine Safety and Health Administration, http://www.msha.gov/1999noise/noiseresources.htm.

NIOSH, 1996, "Analysis of Audiograms for a Large Cohort of Noise-Exposed Miners," John Franks, National Institute for Occupational Safety and Health, Cincinnati, OH, Internal Report, 7 p.

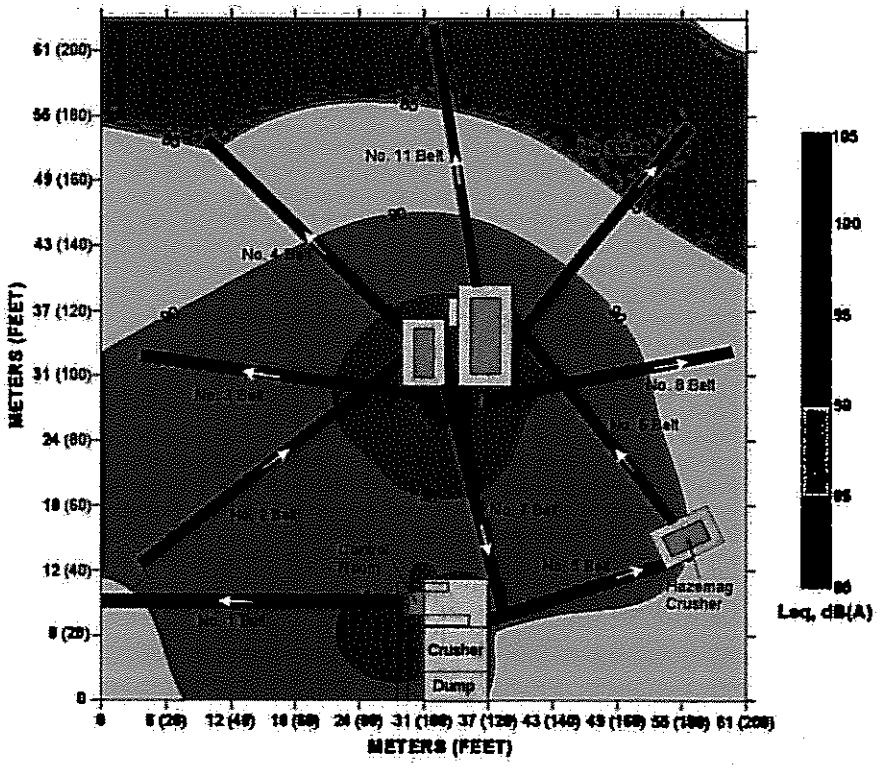
NIOSH, 1998, "Criteria for Recommended Standard, Occupational Noise Exposure, Revised Criteria 1998," National Institute for Occupational Safety and Health, Cincinnati, OH, DHHS (NIOSH) Publication 98-126, 105 p.

Disclaimer

The findings and conclusions in this report have not been formally disseminated by the National Institute for Occupational Safety and Health and should not be construed to represent any agency determination or policy.

FIGURE 9

Sound profile plot of processing facilities (Bauer and Babich, 2006).



Introduced by:	Mayor
Substitute Introduced:	01/16/18
Resolution 2018-004 (Mayor)	See Original for Prior History
Action:	Adopted
Vote:	8 Yes, 0 No, 1 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2018-004
(MAYOR) SUBSTITUTE

A RESOLUTION ESTABLISHING A MATERIAL SITE WORK GROUP

WHEREAS, KPB 21.25.040(A)(2) requires a permit for the commencement of commercial sand, gravel or material sites within the rural district of the Kenai Peninsula Borough; and

WHEREAS, KPB 21.29 provides for a permit process to extract material from the ground; and

WHEREAS, with the exception of one minor change relating to floodplain permits, the material site code was last updated in 2006; and

WHEREAS, the assembly, administration, planning department and the planning commission have recognized that certain provisions of the material site ordinance can be clarified for the operators, public, and staff; and;

WHEREAS, the public has expressed many concerns about dust, noise, water, and negative secondary impacts of material sites; and

WHEREAS, it is the intent of the assembly and administration to involve the public and industry in a collaborative discussion designed to incorporate possible changes to the material site code;

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

SECTION 1. That a work group is established for the purpose of examining the current material site permit process and potentially recommending amendments to the material site code provisions.

SECTION 2. That the work group shall consist of at least two assembly members; two planning commissioners; two members of the public; and, two material site industry members. The group shall elect from among its members a chair and a vice-chair who may serve in the absence of the chair. The two members of the assembly shall be appointed by the assembly. The remaining members shall be appointed by the mayor.

SECTION 3. That each meeting time and place shall be advertised, open to the public and subject to the Open Meetings Act.

SECTION 4. The material site work group shall have no authority to act on behalf of the assembly or the administration or communicate on the borough's behalf other than to make recommendations to the planning commission, administration and assembly.

SECTION 5. The work group shall provide a final report to the planning commission, administration and assembly by June 5, 2018, and then discontinue unless extended by the assembly.

SECTION 6. That this resolution shall take effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF JANUARY, 2018.

Wayne H. Ogle, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bagley, Blakeley, Carpenter, Dunne, Fischer, Hibbert, Smalley, Ogle
No:	None
Absent:	Cooper

Introduced by:	Mayor
Substitute Introduced:	12/03/19
Ordinance 2019-30 (Mayor):	See Original Ordinance for Prior History
Hearing:	12/03/19
Action:	Failed to Enact
Vote:	3 Yes, 6 No, 0 Absent
Action:	Reconsideration Filed by Bjorkman

KENAI PENINSULA BOROUGH
ORDINANCE 2019-30
(MAYOR) SUBSTITUTE

AN ORDINANCE AMENDING KPB 21.29, KPB 21.25, AND KPB 21.50.055 REGARDING MATERIAL SITE PERMITS, APPLICATIONS, CONDITIONS, AND PROCEDURES

WHEREAS, Goal 2, Focus Area: Land Use and Changing Climate, Objective A of the 2019 Kenai Peninsula Borough Comprehensive Plan is to establish policies that better guide land use to minimize land use conflicts, maintain property values, protect natural systems and support individual land use freedoms; and

WHEREAS, Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 1 of the 2019 Comprehensive Plan is to adopt limited development standards for specific areas and uses to reduce potential off site impacts of development on adjoining uses and the natural environment; and

WHEREAS, Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 2 of the 2019 Comprehensive Plan is to update the Borough's existing conditional use regulations for gravel extraction and other uses to better address reoccurring land use conflicts; and

WHEREAS, Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 2a of the 2019 Comprehensive Plan is to clarify the broad purpose of the conditional use process and clear parameters for allowable conditional uses that include reasonable, project-specific conditions that reduce impacts on surrounding uses, and if/when a conditional use permit can be denied and consider establishing conditions that require larger setbacks, safety and visual screening, control on access routes, control on hours of operation, and address environmental concerns; and

WHEREAS, Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 2d of the 2019 Comprehensive Plan is to complete improvements to the rules guiding gravel extraction, with the goal of providing an appropriate balance between providing access to affordable materials for development and protecting quality of life for borough residents; and

WHEREAS, Goal 1 of the Mining and Minerals Processing section of the 1990 Kenai Peninsula Borough Coastal Management Program is to provide opportunities to explore, extract and process minerals, sand and gravel resources, while protecting environmental quality and other resource users; and

WHEREAS, an assembly subcommittee was formed in 2005 to review the material site code; and

WHEREAS, Ordinance 2006-01 (Substitute) codified as KPB 21.29 was adopted in 2006 after consideration of the subcommittee's report; and

WHEREAS, the planning department has been administering Ordinance 2006-01 (Substitute), codified as KPB 21.29 for 13 years; and

WHEREAS, KPB 21.25.040 requires a permit for the commencement of certain land uses within the rural district of the Kenai Peninsula Borough; and

WHEREAS, the planning department has recognized that certain provisions of the material site ordinance could be better clarified for the operators, public, and staff; and

WHEREAS, the planning commission and planning department received comments expressing concerns about dust, noise, safety, and aesthetics; and

WHEREAS, approximately 253 registered prior existing use material sites and approximately 99 conditional land use permits for material sites have been granted since 1996;

WHEREAS, the planning department receives numerous complaints regarding unreclaimed parcels registered as nonconforming prior existing material sites which have not been regulated by KPB; and

WHEREAS, the assembly established a material site work group by adoption of resolution 2018-004 (Substitute) to engage in a collaborative discussion involving the public and industry to make recommendations regarding the material site code; and

WHEREAS, assembly resolution 2018-025 extended the deadline for the final report to be submitted to the assembly, administration and planning commission to April 30, 2019; and

WHEREAS, certain additional conditions placed on material site permits would facilitate a reduction in the negative secondary impacts of material sites, e.g. dust, noise, safety, and unsightliness of material sites; and

WHEREAS, at its regularly scheduled meeting of November 12, 2019, the Planning Commission recommended approval by unanimous consent;

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

SECTION 1. That KPB 21.25.030 is hereby amended, as follows:

21.25.030. - Definitions.

Unless the context requires otherwise, the following definitions apply to CLUPs:

Abandon means to cease or discontinue a use without intent to resume, but excluding short-term interruptions to use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility or during normal periods of vacation or seasonal closure. An "intent to resume" can be shown through continuous operation of a portion of the facility, maintenance of utilities, or outside proof of continuance, e.g., bills of lading or delivery records. Abandonment also means the cessation of use, regardless of voluntariness, for a specified period of time.

Animal feeding operation means a lot or facility (other than an aquatic animal production facility) where animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period.

a. The same animals need not remain on the lot for 45 days or more; rather, some animals are fed or maintained on the lot 45 days out of any 12-month period, and

b. Animals are "maintained" for purposes of this ordinance when they are confined in an area where waste is generated and/or concentrated or are watered, cleaned, groomed, or medicated in a confined area, even if the confinement is temporary.

c. Two or more animal feeding operations under common ownership are considered, for the purposes of these regulations, to be a single animal feeding operation if they adjoin each other.

d. Slaughterhouses are animal feeding operations.

Animal unit means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighting [weighing] over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

Animal waste means animal excrement, animal carcasses, feed wasted, process wastewaters or any other waste associated with the confinement of animals from an animal feeding operation.

Animal waste management system means a combination of structures and nonstructural practices serving an animal feeding operation that provides for the collection, treatment, disposal, distribution, storage and land application of animal waste.

Aquifer means a subsurface formation that contains sufficient water-saturated permeable material to yield economical quantities of water to wells and springs.

Aquifer-confining layer means that layer of relatively impermeable soil below an aquifer, typically clay, which confines water.

Assisted living home means a residential facility that serves three or more adults who are not related to the owner by blood or marriage, or that receives state or that receives state or federal payment for service of the number of adults served. The services and activities may include, but are not limited to, housing and food services to its residents, assistance with activities of daily living, and personal assistance, and that complies with Alaska Statutes 47.32.0101 – 47.60.900, as amended.

Child care facility means a place where child care is regularly provided for children under the age of 12 for periods of time that are less than 24 hours in duration and that is licensed pursuant to AS 47.35.005 et seq., excluding child care homes and child care group homes, as currently written or hereafter amended.

Commercial means any provision of services, sale of goods, or use operated for production of income whether or not income is derived, including sales, barter, rental, or trade of goods and services.

Concentrated animal feeding operation (CAFO) means an animal feeding operation confining at least: (1) 1,000 swine weighing at least approximately 55 pounds; (2) 1,000 slaughter and feeder cattle; (3) 700 mature dairy cattle; (4) 500 horses; (5) 10,000 sheep or lambs; (6) 55,000 turkeys; (7) 100,000 laying hens or broilers (if the facility has continuous overflow watering); (8) 30,000 laying hens or broilers (if the facility has a liquid manure system); (9) 5,000 ducks; (10) 1,000 animal units; or (11) a combination of the above resulting in at least 1,000 animal units. Each individual parcel upon which a CAFO is located is a separate CAFO unless they adjoin each other.

Conditioning or processing material means a value-added process including batch plants, asphalt plants, screening, washing, and crushing by use of machinery.

Correctional community residential center (CCRC) means a community residential center, other than a correctional institution, for the short-term or temporary detention of prisoners in transition from a correctional institution, performing restitution, or undergoing rehabilitation or recovery from a legal infirmity. CCRCs may not be used for detention of prisoners who pose a threat or danger to the public for violent or sexual misconduct without imprisonment or physical confinement under guard or twenty-four-hour physical supervision. The determination of whether a prisoner poses a threat or danger to the public for violent or sexual misconduct without imprisonment or physical confinement under guard or twenty-four-hour physical supervision shall be made by the commissioner of corrections for state prisoners and the United States Attorney General, or the U.S. Director of Bureau of Prisons for federal prisoners.

Correctional institution means a facility other than a correctional community residential center providing for the imprisonment or physical confinement or detention of prisoners under guard or twenty-four-hour physical supervision, such as prisons, prison farms, jails, reformatories, penitentiaries, houses of detention, detention centers, honor camps, and similar facilities.

Development plan means a plan created to describe a proposed development on a specific building site excluding material sites under KPB 21.29.020.

Disturbed includes active excavation and all areas necessary to use a parcel as a material site including but not limited to berms, stockpiles, and excavated areas excluding all areas reclaimed for alternate post mining land uses.

[*EXHAUSTED* MEANS THAT ALL MATERIAL OF A COMMERCIAL QUALITY IN A SAND, GRAVEL, OR MATERIAL SITE HAS BEEN REMOVED.]

Federal prisoners means offenders in the custody or control or under the care or supervision of the United States Attorney General or the Bureau of Prisons.

Groundwater means, in the broadest sense, all subsurface water, more commonly that part of the subsurface water in the saturated zone.

Haul route includes the roads used to haul materials from the permit area to a roadway designated as collector, arterial or interstate by the Alaska Department of Transportation & Public Facilities.

Liquid manure or *liquid animal waste system* means any animal waste management system which uses water as the primary carrier of such waste into a primary retention structure.

Multi-purpose senior center is a facility where persons 60 years of age or older are provided with services and activities suited to their particular needs. The

services and activities may include, but are not limited to, health examinations, legal assistance, recreation programs, general social activities, telephone reassurance programs, nutrition classes, meals at minimum cost, counseling, protective services, programs for shut-ins and education programs, and that complies with Alaska Statutes 47.60.010—47.60.090, as currently written or hereafter amended.

Permit area includes all excavation, processing, buffer and haul route areas of a CLUP or counter permit.

Person shall include any individual, firm, partnership, association, corporation, cooperative, or state or local government.

Prisoner means:

a. a person held under authority of state law in official detention as defined in AS 11.81.900;

b. includes a juvenile committed to the custody of the Alaska Department of Corrections Commissioner when the juvenile has been charged, prosecuted, or convicted as an adult.

Private school is a school comprised of kindergarten through 12th grade, or any combination of those grades, that does not receive direct state or federal funding and that complies with either Alaska Statute 14.45.030 or 14.45.100—14.45.130, as currently written or hereafter amended.

Public school is a school comprised of kindergarten through 12th grade, or any combination of those grades, that is operated by the State of Alaska or any political subdivision of the state.

Sand, gravel or material site means an area used for extracting, quarrying, or conditioning gravel or substances from the ground that are not subject to permits through the state location (mining claim) system (e.g., gold, silver, and other metals), nor energy minerals including but not limited to coal, oil, and gas.

Seasonal high groundwater table means the highest level to which the groundwater rises on an annual basis.

Senior housing project means senior housing as defined for purposes of construction or operation in 15 Alaska Administrative Code 151.950(c), as currently written or hereafter amended.

Stable condition means the rehabilitation, where feasible, of the physical environment of the site to a condition that allows for the reestablishment of

renewable resources on the site within a reasonable period of time by natural processes.

Surface water means water on the earth's surface exposed to the atmosphere such as rivers, lakes, and creeks.

Topsoil means material suitable for vegetative growth.

Vicinity means the same as the area of notification.

Waterbody means any lake, pond, stream, riparian wetland, or groundwater into which storm water runoff is directed.

Water source means a well, spring or other similar source that provides water for human consumptive use.

SECTION 2. That KPB 21.29 is hereby amended, as follows:

CHAPTER 21.29. MATERIAL SITE PERMITS

21.29.010. Material extraction exempt from obtaining a permit.

A. Material extraction which disturbs an area of less than one acre that is not in a mapped flood plain or subject to 21.29.010(B), does not enter the water table, and does not cross property boundaries, does not require a permit. There will be no excavation within 20 feet of a right-of-way or within ten feet of a lot line.

B. Material extraction taking place on dewatered bars within the confines of the Snow River and the streams within the Seward-Bear Creek Flood Service Area does not require a permit, however, operators subject to this exemption shall provide the planning department with the information required by KPB 21.29.030(A)(1), (2), (6), (7) and a current flood plain development permit prior to beginning operations.

C. A prior existing use under KPB 21.29.120 does not require a material extraction permit, but a floodplain development permit is required for all activities within any mapped special flood hazard area.

D. Material extraction incidental to site development does not require a permit when an approved site development plan is on file with the planning department. Site development plans are approved by the planning director and are valid for one year. The site development plan may be renewed on an annual basis subject to the planning director's approval.

21.29.020. Material extraction and activities requiring a permit.

A. *Counter permit.* A counter permit is required for material extraction which disturbs no more than 2.5 cumulative acres and does not enter the water table. Counter permits are approved by the planning director, and are not subject to the notice requirements or planning commission approval of KPB 21.25.060. A counter permit is valid for a period of 12 months, with a possible 12-month extension.

B. *Conditional land use permit.* A conditional land use permit (CLUP) is required for material extraction which disturbs more than 2.5 cumulative acres, or material extraction of any size that enters the water table. A CLUP is required for materials processing. A CLUP is valid for a period of five years. The provisions of KPB Chapter 21.25 are applicable to material site CLUPS and the provisions of KPB 21.25 and 21.29 are read in harmony. If there is a conflict between the provisions of KPB 21.25 and 21.29, the provisions of KPB 21.29 are controlling.

21.29.030. Application procedure.

A. In order to obtain a counter permit or CLUP, an applicant shall first complete and submit to the borough planning department a permit application, along with the fee listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees. The planning director may determine that certain contiguous parcels are eligible for a single permit. The application shall include the following items:

1. Legal description of the parcel, KPB tax parcel ID number, and identification of whether the permit is for the entire parcel, or a specific location within a parcel;

2. Expected life span of the material site;

3. A buffer plan consistent with KPB 21.29.050(A)(2);

4. Reclamation plan consistent with KPB 21.29.060;

5. The depth of excavation;

6. Type of material to be extracted and type of equipment to be used;

7. Any voluntary permit conditions the applicant proposes. Failure to include a proposed voluntary permit condition in the application does not preclude the applicant from proposing or agreeing to voluntary permit conditions at a later time;

8. Surface water protection measures, if any, for adjacent properties designed by a civil engineer, including the use of diversion channels, interception ditches, on-site collection ditches, sediment ponds and traps, and silt fence;

9. A site plan and field verification prepared by a professional surveyor licensed and registered in the State of Alaska, including the following information:

   a. Location of excavation, and, if the site is to be developed in phases, the life span and expected reclamation date for each phase;

   b. Proposed buffers consistent with KPB 21.29.050(A)(2), or alternate buffer plan;

   c. Identification of all encumbrances, including, but not limited to easements;

   d. Points of ingress and egress. Driveway permits must be acquired from either the state or borough as appropriate prior to the issuance of the material site permit;

   e. Anticipated haul routes;

   f. Location and [DEPTH] elevation of test holes, and depth of groundwater, if encountered between May and December. At least one test hole per ten acres of excavated area is required to be dug. The test holes shall be at least four feet below the proposed depth of excavation;

   g. Location of wells of adjacent property owners within 300 feet of the proposed parcel boundary;

   h. Location of any water body on the parcel, including the location of any riparian wetland as determined by "Wetland Mapping and Classification of the Kenai Lowland, Alaska" maps created by the Kenai Watershed Forum;

   [I. SURFACE WATER PROTECTION MEASURES FOR ADJACENT PROPERTIES, INCLUDING THE USE OF DIVERSION CHANNELS, INTERCEPTION DITCHES, ON-SITE COLLECTION DITCHES, SEDIMENT PONDS AND TRAPS, AND SILT FENCE; PROVIDE DESIGNS FOR SUBSTANTIAL STRUCTURES; INDICATE WHICH

STRUCTURES WILL REMAIN AS PERMANENT FEATURES AT THE CONCLUSION OF OPERATIONS, IF ANY;]

[J]i. Location of any processing areas on parcel, if applicable;

[K]j. North arrow;

[L]k. The scale to which the site plan is drawn;

[M]l. Preparer's name, date and seal;

[N]m. Field verification shall include staking the boundary of the parcel at sequentially visible intervals. The planning director may grant an exemption in writing to the staking requirements if the parcel boundaries are obvious or staking is unnecessary.

B. In order to aid the planning commission or planning director's decision-making process, the planning director shall provide vicinity, aerial, land use, and ownership maps for each application and may include additional information.

21.29.040. Standards for sand, gravel or material sites.

A. These material site regulations are intended to protect against aquifer disturbance, road damage, physical damage to adjacent properties, dust, noise, and visual impacts. Only the conditions set forth in KPB 21.29.050 may be imposed to meet these standards:

1. Protects against the lowering of water sources serving other properties;

2. Protects against physical damage to [OTHER] adjacent properties;

3. [MINIMIZES] Protects against off-site movement of dust;

4. [MINIMIZES] Protects against noise disturbance to other properties;

5. [MINIMIZES] Protects against visual impacts of the material site; [AND]

6. Provides for alternate post-mining land uses[.];

7. Protects Receiving Waters against adverse effects to fish and wildlife habitat;

8. Protects against traffic impacts; and

9. Provides consistency with the objectives of the Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents.

21.29.050. Permit conditions.

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

1. [*PARCEL]Permit boundaries.* [ALL BOUNDARIES OF THE SUBJECT PARCEL] The buffers and any easements or right-of-way abutting the proposed permit area shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter. Field verification and staking will require the services of a professional land surveyor. Stakes shall be in place [AT TIME OF APPLICATION] prior to issuance of the permit.

[2. *BUFFER ZONE.* A BUFFER ZONE SHALL BE MAINTAINED AROUND THE EXCAVATION PERIMETER OR PARCEL BOUNDARIES. WHERE AN EASEMENT EXISTS, A BUFFER SHALL NOT OVERLAP THE EASEMENT, UNLESS OTHERWISE CONDITIONED BY THE PLANNING DIRECTOR OR PLANNING COMMISSION.

A. THE BUFFER ZONE SHALL PROVIDE AND RETAIN A BASIC BUFFER OF:

I. 50 FEET OF UNDISTURBED NATURAL VEGETATION, OR

II. A MINIMUM SIX-FOOT EARTHEN BERM WITH AT LEAST A 2:1 SLOPE, OR

III. A MINIMUM SIX-FOOT FENCE.

B. A 2:1 SLOPE SHALL BE MAINTAINED BETWEEN THE BUFFER ZONE AND EXCAVATION FLOOR ON ALL INACTIVE SITE WALLS. MATERIAL FROM THE AREA DESIGNATED FOR THE 2:1 SLOPE MAY BE REMOVED IF SUITABLE, STABILIZING MATERIAL IS REPLACED WITHIN 30 DAYS FROM THE TIME OF REMOVAL.

C. THE PLANNING COMMISSION OR PLANNING DIRECTOR SHALL DESIGNATE ONE OR A COMBINATION OF THE ABOVE AS IT DEEMS APPROPRIATE. 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 PLANNING DIRECTOR.

D. BUFFERS SHALL NOT CAUSE SURFACE WATER DIVERSION WHICH NEGATIVELY IMPACTS ADJACENT PROPERTIES OR WATER BODIES. SPECIFIC FINDINGS ARE REQUIRED TO ALTER THE BUFFER REQUIREMENTS OF KPB 21.29.050(A)(2)(A) IN ORDER TO MINIMIZE NEGATIVE IMPACTS FROM SURFACE WATER DIVERSION. FOR PURPOSES OF THIS SECTION, SURFACE WATER DIVERSION IS DEFINED AS EROSION, FLOODING, DEHYDRATION OR DRAINING, OR CHANNELING. NOT ALL SURFACE WATER DIVERSION RESULTS IN A NEGATIVE IMPACT.

E. AT ITS DISCRETION, THE PLANNING COMMISSION MAY WAIVE BUFFER REQUIREMENTS WHERE THE TOPOGRAPHY OF THE PROPERTY OR THE PLACEMENT OF NATURAL BARRIERS MAKES SCREENING NOT FEASIBLE OR NOT NECESSARY. BUFFER REQUIREMENTS SHALL BE MADE IN CONSIDERATION OF AND IN ACCORDANCE WITH EXISTING USES OF ADJACENT PROPERTY AT THE TIME OF APPROVAL OF THE PERMIT. THERE IS NO REQUIREMENT TO BUFFER THE MATERIAL SITE FROM USES WHICH COMMENCE AFTER THE APPROVAL OF THE PERMIT.]

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 or a combination thereof.

b. A 2:1 slope shall be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.

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 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,

or a minimum six-foot fence or a combination thereof; unless the permittee proposes another solution approved by the planning commission or planning director, as applicable, to meet this condition.

e. The buffer requirements may be waived by the planning commission or planning director, as applicable, where the topography of the property or the placement of natural barriers makes screening not feasible or unnecessary.

f. There is no requirement to buffer a material site from uses that commence after approval of the permit.

g. When a buffer area has been denuded prior to review of the application by the planning commission or planning director revegetation may be required.

3. *Processing.* In the case of a CLUP, any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries. At its discretion, the planning commission may waive the 300-foot processing distance requirement, or allow a lesser distance in consideration of and in accordance with existing uses of [OF ADJACENT PROPERTY AT THE TIME] the properties in the vicinity at the time of approval of the permit.

4. *Water source separation.*

a. All permits shall be issued with a condition which prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance.

b. All counter permits shall be issued with a condition which requires that a four-foot vertical separation [FROM]between extraction operations and the seasonal high water table be maintained.

c. All CLUPS shall be issued with a condition which requires that a [TWO] four-foot vertical separation [FROM]between extraction operations and the seasonal high water table be maintained.

d. There shall be no dewatering either by pumping, ditching or some other form of draining unless an exemption is granted by the planning commission. The exemption for dewatering may be granted if the operator provides a statement under seal and supporting data from a duly licensed and qualified impartial

civil engineer, that the dewatering will not lower any of the surrounding property's water systems and the contractor posts a bond for liability for potential accrued damages.

5. *Excavation in the water table.* Excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission based on the following:

   a. Certification by a qualified independent civil engineer or professional hydrogeologist that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources.

   b. The installation of a minimum of three water monitoring tubes or well casings as recommended by a qualified independent civil engineer or professional hydrogeologist adequate to determine flow direction, flow rate, and water elevation.

   c. Groundwater elevation, flow direction, and flow rate for the subject parcel, measured in three-month intervals by a qualified independent civil engineer or professional hydrogeologist, for at least one year prior to application. Monitoring tubes or wells must be kept in place, and measurements taken, for the duration of any excavation in the water table.

   d. Operations shall not breach an aquifer-confining layer.

6. *Waterbodies.*

   a. An undisturbed buffer shall be left and no earth material extraction activities shall take place within [100] 200 linear feet from excavation limits and the ordinary high water level of surface water bodies such as a lake, river, stream, [OR OTHER WATER BODY, INCLUDING] riparian wetlands and mapped floodplains as defined in KPB 21.06. This regulation shall not apply to man-made waterbodies being constructed during the course of the materials extraction activities. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.

   b. Counter permits and CLUPS may contain additional conditions addressing surface water diversion.

7. *Fuel storage.* Fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.

8. *Roads.* Operations shall be conducted in a manner so as not to damage borough roads as required by KPB 14.40.175 and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.

9. *Subdivision.* Any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit. The planning director may issue a written exemption from the amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a material site and all original permit conditions can be met.

10. *Dust control.* Dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.

11. *Hours of operation.* [ROCK CRUSHING EQUIPMENT SHALL NOT BE OPERATED BETWEEN 10:00 P.M. AND 6:00 A.M.]

    a. Processing equipment shall not be operated between 7:00 p.m. and 6:00 a.m.

    b. The planning commission may grant exceptions to increase the hours of operation and processing based on surrounding land uses, topography, screening the material site from properties in the vicinity and conditions placed on the permit by the planning commission to mitigate the noise, dust and visual impacts caused by the material site.

12. *Reclamation.*

    a. Reclamation shall be consistent with the reclamation plan approved by the planning commission or planning director as appropriate in accord with KPB 21.29.060.

    b. [AS A CONDITION OF ISSUING THE PERMIT, THE APPLICANT SHALL SUBMIT A RECLAMATION PLAN AND POST A BOND TO COVER THE ANTICIPATED RECLAMATION COSTS IN AN AMOUNT TO BE DETERMINED BY THE PLANNING DIRECTOR. THIS BONDING REQUIREMENT SHALL NOT APPLY TO SAND, GRAVEL

OR MATERIAL SITES FOR WHICH AN EXEMPTION FROM STATE BOND REQUIREMENTS FOR SMALL OPERATIONS IS APPLICABLE PURSUANT TO AS 27.19.050.] The applicant shall operate the material site consistent with the approved reclamation plan and provide bonding pursuant to 21.29.060(B). This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.

13. *Other permits.* Permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC air and water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives. Any violation of these regulations or permits reported to or observed by borough personnel will be forwarded to the appropriate agency for enforcement.

14. [*VOLUNTARY]Volunteered permit conditions.* Conditions may be included in the permit upon agreement of the permittee and approval of the planning commission for CLUPs or the planning director for counter permits. Such conditions must be consistent with the standards set forth in KPB 21.29.040(A). Planning commission approval of such conditions shall be contingent upon a finding that the conditions will be in the best interest of the borough and the surrounding property owners. [VOLUNTARY] Volunteered permit conditions apply to the subject parcel and operation, regardless of a change in ownership. A change in [VOLUNTARY] volunteered permit conditions may be proposed [AT] by permit [RENEWAL OR AMENDMENT] modification.

15. *Signage.* For permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access, whichever is more visible. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.

16. A*ppeal.* 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.

17. *Sound level.*

    a. No sound resulting from the materials extraction activities shall create a sound level, when measured at or within the property boundary of the adjacent land, that exceeds 75 dB(A).

    b. For any sound that is of short duration between the hours of 7 a.m. and 7 p.m. the levels may be increased by:

        i. Five dB(A) for a total of 15 minutes in any one hour; or

        ii. Ten dB(A) for a total of five minutes in any hour; or

        iii. Fifteen db(A) for a total of one and one-half minutes in any one-hour period.

    c. At its discretion, the planning commission or planning director, as applicable, may reduce or waive the sound level requirements on any or all property boundaries. Sound level requirements shall be made in consideration of and in accordance with existing uses of the properties in the vicinity at the time of approval of the permit.

    d. Mandatory condition KPB 21.29.050(A)(17) shall expire 365 days from adoption of KPB 21.29.050(A)(17) unless extended or modified by the assembly.

18. *Reverse signal alarms*. Reverse signal alarms, used at the material site on loaders, excavators, and other earthmoving equipment shall be more technically advanced devices; such as, a multi-frequency "white noise" alarms rather than the common, single (high-pitch) tone alarms. At its discretion, the planning commission or planning director, as applicable, may waive this requirement or a portion of this requirement. The waiver of this requirement shall be made in consideration of and in accordance with existing uses of the properties in the vicinity at the time of approval of the permit.

19. *Ingress and egress*. The planning commission or planning director may determine the points of ingress and egress for the material site. The permittee is not required to construct haul routes outside the

parcel boundaries of the material site. Driveway authorization must be acquired, from either the state through an "Approval to Construct" or a borough road service area as appropriate, prior to issuance of a material site permit when accessing a public right-of-way.

20. *Dust suppression*. Dust suppression shall be required when natural precipitation is not adequate to suppress the dust generated by the material site traffic on haul routes. Based on surrounding land uses the planning commission or planning director, as applicable, may waive or reduce the requirement for dust suppression on haul routes.

21. *Surface water protection.* Use of surface water protection measures as specified in KPB 21.29.030(A)(8) must be approved by a licensed civil engineer.

22. *Groundwater elevation.* All material sites must maintain one monitoring tube per ten acres of excavated area four feet below the proposed excavation.

23. *Setback.* Material site excavation areas shall be 250-feet from the property boundaries of any local option zoning district, existing public school ground, private school ground, college campus, child care facility, multi-purpose senior center, assisted living home, and licensed health care facility. If overlapping, the buffer areas of the excavation shall be included in the 250-foot setback.

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.

21.29.060. Reclamation plan.

A. All material site permit applications require an overall reclamation plan along with a five-year reclamation plan. A site plan for reclamation shall be required including a scaled drawing with finished contours. A five-year reclamation plan must be submitted with a permit extension request.

B. The applicant shall revegetate with a non-invasive plant species and reclaim all disturbed land [UPON EXHAUSTING THE MATERIAL ON-SITE, OR WITHIN A

PRE-DETERMINED TIME PERIOD FOR LONG-TERM ACTIVITIES, SO AS TO LEAVE THE LAND IN A STABLE CONDITION. RECLAMATION MUST OCCUR FOR ALL EXHAUSTED AREAS OF THE SITE EXCEEDING FIVE ACRES BEFORE A FIVE-YEAR RENEWAL PERMIT IS ISSUED, UNLESS OTHERWISE REQUIRED BY THE PLANNING COMMISSION. IF THE MATERIAL SITE IS ONE ACRE OR LESS IN SIZE AND HAS BEEN GRANTED A CLUP DUE TO EXCAVATION IN THE WATER TABLE, RECLAMATION MUST BE PERFORMED AS SPECIFIED BY THE PLANNING COMMISSION OR PLANNING DIRECTOR IN THE CONDITIONAL USE OR COUNTER PERMIT] within the time period approved with the reclamation plan so as to leave the land in a stable condition. Bonding shall be required at $2,000.00 per acre for all acreage included in the current five-year reclamation plan. In the alternative, the planning director may accept a civil engineer's estimate for determining the amount of bonding. If the applicant is bonded with the state, the borough's bonding requirement is waived. Compliance with reclamation plans shall be enforced under KPB 21.50.

C. The following measures must be considered in the [PREPARING] preparation, approval and [IMPLEMENTING] implementation of the reclamation plan, although not all will be applicable to every reclamation plan.

1. Topsoil that is not promptly redistributed to an area being reclaimed will be separated and stockpiled for future use. [THIS MATERIAL WILL BE PROTECTED FROM EROSION AND CONTAMINATION BY ACIDIC OR TOXIC MATERIALS AND PRESERVED IN A CONDITION SUITABLE FOR LATER USE.]

2. The area will be backfilled, graded and recontoured using strippings, overburden, and topsoil [TO A CONDITION THAT ALLOWS FOR THE REESTABLISHMENT OF RENEWABLE RESOURCES ON THE SITE WITHIN A REASONABLE PERIOD OF TIME. IT WILL BE STABILIZED TO A CONDITION THAT WILL ALLOW SUFFICIENT MOISTURE FOR REVEGETATION] so that it will be stabilized to a condition that will allow for the revegetation as required by KPB 21.29.060(B).

3. [SUFFICIENT QUANTITIES OF STOCKPILED OR IMPORTED TOPSOIL WILL BE SPREAD OVER THE RECLAIMED AREA TO A DEPTH OF FOUR INCHES TO PROMOTE NATURAL PLANT GROWTH THAT CAN REASONABLY BE EXPECTED TO REVEGETATE THE AREA WITHIN FIVE YEARS. THE APPLICANT MAY USE THE EXISTING NATURAL ORGANIC BLANKET REPRESENTATIVE OF THE PROJECT AREA IF THE SOIL IS FOUND TO HAVE AN ORGANIC CONTENT OF 5% OR MORE AND MEETS THE SPECIFICATION OF CLASS B TOPSOIL REQUIREMENTS AS SET BY ALASKA TEST METHOD (ATM) T-6.] The [MATERIAL] topsoil used for reclamation shall be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes

greater than 2:1 require special consideration and design for stabilization by a licensed engineer.

4. Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation shall be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.

5. [PEAT AND T]Topsoil mine operations shall ensure a minimum of [TWO] four inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).

6. Ponding may be used as a reclamation method as approved by the planning commission.

D. The five-year reclamation plan shall describe the total acreage to be reclaimed [EACH YEAR, A LIST OF EQUIPMENT (TYPE AND QUANTITY) TO BE USED IN RECLAMATION, AND A TIME SCHEDULE OF RECLAMATION MEASURES] relative to the total excavation plan.

21.29.070. Permit extension and revocation.

A. Conditional land use permittees must submit a request in writing for permit extension every five years after the permit is issued. Requests for permit extension must be made at least 30 days prior to permit expiration. Counter permittees must submit any request for a 12-month extension at least 30 days prior to the expiration of the original 12-month permit period.

B. A permit extension certificate for a CLUP may be granted by the planning director after 5 years, and after one year for a counter permit where no modification to operations or conditions are proposed.

C. Permit extension may be denied if: (1) reclamation required by this chapter and the original permit has not been performed; (2) the permittee is otherwise in noncompliance with the original permit conditions; or (3) the permittee has had a permit violation in the last two years and has not fulfilled compliance requests.

D. A modification application shall be processed pursuant to KPB 21.29.030-050 with public notice given as provided by KPB 21.25.060 when operators request modification of their permit conditions based on changes in operations set forth in the modification application.

E. There shall be no fee for permit extensions approved by the planning director. The fee for a permit modification processed under KPB

21.29.070(D) will be the same as an original permit application in the amount listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees.

F. Failure to submit a request for extension will result in the expiration of the permit. The borough may issue a permit termination document upon expiration pursuant to KPB 21.29.080. Once a permit has expired, a new permit application approval process is required in order to operate the material site.

G. Permits may be revoked pursuant to KPB 21.50. 21.29.080. - Permit termination.

When a permit expires, is revoked, or a permittee requests termination of their permit, a review of permit conditions and site inspections will be conducted by the planning department to ensure code compliance and verify site reclamation prior to termination. When the planning director determines that a site qualifies for termination, a termination document shall be issued to the permittee.

21.29.090. Permit modifications.

If a permittee revises or intends to revise operations (at a time other than permit extension) so that they are no longer consistent with the original application, a permit modification is required. The planning director shall determine whether the revision to operations requires a modification. Permit modification shall be processed in the same manner as original permits.

21.29.100. Recordation.

All permits, permit extensions, modified permits, prior existing uses, and terminations shall be recorded. Failure to record a material site document does not affect the validity of the documents.

21.29.110. Violations.

A. Violations of this chapter shall be governed by KPB 21.50.

B. In addition to the remedies provided in KPB 21.50, the planning director may require bonding in a form and amount adequate to protect the borough's interests for an owner or operator who has been cited for three violations of KPB 21.50, 21.25, and 21.29 within a three-year period. The violations need not be committed at the same material site. Failure to provide requested bonding may result in permit revocation proceedings.

21.29.120. Prior existing uses.

A. Material sites are not held to the standards and conditions of a CLUP if a prior existing use (PEU) determination was granted for the parcel in accordance with KPB 21.29.120(B). To qualify as a PEU, a parcel's use as a material site must have commenced or have been operated after May 21, 1986, and prior to May 21, 1996, provided that the subject use continues in the same location. In no event shall a prior existing use be expanded beyond the smaller of the lot, block, or tract lines as they existed on May 21, 1996. If a parcel is further subdivided after May 21, 1996, the pre-existing use may not be expanded to any lot, tract, or parcel where extraction had not occurred before or on February 16, 1999. If a parcel is subdivided where extraction has already occurred, the prior existing use is considered abandoned, and a CLUP must be obtained for each parcel intended for further material site operations. The parcel owner may overcome this presumption of abandonment by showing that the subdivision is not inconsistent with material site operation. If a parcel subject to a prior existing use is conveyed, the prior existing use survives the conveyance.

B. Owners of sites must have applied to be registered as a prior existing use prior to January 1, 2001.

C. [ANY PRIOR EXISTING USE THAT HAS NOT OPERATED AS A MATERIAL SITE BETWEEN MAY 21, 1996, AND MAY 21, 2011, IS CONSIDERED ABANDONED AND MUST THEREAFTER COMPLY WITH THE PERMIT REQUIREMENTS OF THIS CHAPTER. THE PLANNING DIRECTOR SHALL DETERMINE WHETHER A PRIOR EXISTING USE HAS BEEN ABANDONED. AFTER GIVING NOTICE TO THE PARCEL OWNER THAT A PEU IS CONSIDERED ABANDONED, A PARCEL OWNER MAY PROTEST THE TERMINATION OF THE PEU BY FILING WRITTEN NOTICE WITH THE PLANNING DIRECTOR ON A FORM PROVIDED BY THE PLANNING DEPARTMENT. WHEN A PROTEST BY A PARCEL OWNER IS FILED, NOTICE AND AN OPPORTUNITY TO MAKE WRITTEN COMMENTS REGARDING PRIOR EXISTING USE STATUS SHALL BE ISSUED TO OWNERS OF PROPERTY WITHIN A ONE-HALF MILE RADIUS OF THE PARCEL BOUNDARIES OF THE SITE. THE OWNER OF THE PARCEL SUBJECT TO THE PRIOR EXISTING USE MAY SUBMIT WRITTEN INFORMATION, AND THE PLANNING DIRECTOR MAY GATHER AND CONSIDER ANY INFORMATION RELEVANT TO WHETHER A MATERIAL SITE HAS OPERATED. THE PLANNING DIRECTOR MAY CONDUCT A HEARING IF HE OR SHE BELIEVES IT WOULD ASSIST THE DECISION-MAKING PROCESS. THE PLANNING DIRECTOR SHALL ISSUE A WRITTEN DETERMINATION WHICH SHALL BE DISTRIBUTED TO ALL PERSONS MAKING WRITTEN COMMENTS. THE PLANNING DIRECTOR'S DECISION REGARDING TERMINATION OF THE PRIOR EXISTING USE STATUS MAY BE APPEALED TO THE PLANNING COMMISSION WITHIN 15 DAYS OF THE DATE OF THE NOTICE OF DECISION.]

<u>The owner of a material site that has been granted a PEU determination shall provide proof of compliance with AS 27.19.030 – 050 concerning</u>

reclamation to the planning department no later than July 1, 2021. The proof shall consist of an Alaska Department of Natural Resources (DNR) approved reclamation plan and receipt for bonding or a letter of intent filed with DNR.

1. The planning department may request proof of continued compliance with AS 27.19.030 – 050 on an annual basis.

2. Pursuant to KPB 21.29.110 the enforcement process and remedies set forth in KPB 21.50 shall govern if the proof that the statutory requirements contained in AS 27.19.030-050 is not provided to the planning department.

SECTION 3. That KPB 21.50.055 is hereby amended, 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 20.10.030(A)	Offering land for sale without final plat approval	$300.00
KPB 20.10.030(B)	Filing/recording unapproved subdivision/plat	$300.00
KPB 20.10.030(C)	Violation of subdivision code or condition	$300.00
KPB 21.05.040(C)	Violation of variance conditions	$300.00
KPB 21.06.030(D)	Structure or activity prohibited by KPB 21.06	$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/Violation of SMFDA permit conditions/Floodplain Management	$300.00
KPB 21.06.050	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 Also applies to KPB 21.26 material site permits	$300.00
KPB 21.29.060	Violation of Reclamation Plan/Material Site Permits Also applies to KPB 21.26 material site permits	$300.00
<u>KPB 21.29.120</u>	<u>Failure to Provide Reclamation Plan and Proof of Bonding or Letter of Intent</u>	<u>$300.00</u>
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 Option Zoning	$300.00
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	$1,000.00
KPB 21.50.130(I)	Violation of an enforcement order	$1,000.00

SECTION 4. That this ordinance shall become effective upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2019.

Kelly Cooper, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:	Dunne, Johnson, Cooper
No:	Bjorkman, Blakeley, Carpenter, Cox, Hibbert, Smalley
Absent:	None

Introduced by:	Mayor, Johnson
Date:	12/07/21
Hearing:	01/18/22
Action:	Postponed as Amended to 02/01/22
Vote:	5 Yes, 3 No, 1 Absent
Date:	02/01/22
Action:	Tabled
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2021-41

AN ORDINANCE AMENDING KPB 21.29, KPB 21.25, AND KPB 21.50.055 REGARDING MATERIAL SITE PERMITS, APPLICATIONS, CONDITIONS, AND PROCEDURES

WHEREAS, Goal 2, Focus Area: Land Use and Changing Climate, Objective A of the 2019 Kenai Peninsula Borough Comprehensive Plan is to establish policies that better guide land use to minimize land use conflicts, maintain property values, protect natural systems and support individual land use freedoms; and

WHEREAS, Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 1 of the 2019 Comprehensive Plan is to adopt limited development standards for specific areas and uses to reduce potential off site impacts of development on adjoining uses and the natural environment; and

WHEREAS, Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 2 of the 2019 Comprehensive Plan is to update the Borough's existing conditional use regulations for gravel extraction and other uses to better address reoccurring land use conflicts; and

WHEREAS, Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 2a of the 2019 Comprehensive Plan is to clarify the broad purpose of the conditional use process and clear parameters for allowable conditional uses that include reasonable, project-specific conditions that reduce impacts on surrounding uses, and if/when a conditional use permit can be denied and consider establishing conditions that require larger setbacks, safety and visual screening, control on access routes, control on hours of operation, and address environmental concerns; and

WHEREAS, Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 2d of the 2019 Comprehensive Plan is to complete improvements to the rules guiding gravel extraction, with the goal of providing an appropriate balance between providing access to affordable materials for development and protecting quality of life for borough residents; and

WHEREAS, Goal 1 of the Mining and Minerals Processing section of the 1990 Kenai Peninsula Borough Coastal Management Program is to provide opportunities to explore, extract and process minerals, sand and gravel resources, while protecting environmental quality and other resource users; and

WHEREAS, an assembly subcommittee was formed in 2005 to review the material site code; and

WHEREAS, Ordinance 2006-01 (Substitute) codified as KPB 21.29 was adopted in 2006 after consideration of the subcommittee's report; and

WHEREAS, the planning department has been administering Ordinance 2006-01 (Substitute), codified as KPB 21.29 for 13 years; and

WHEREAS, KPB 21.25.040 requires a permit for the commencement of certain land uses within the rural district of the Kenai Peninsula Borough; and

WHEREAS, the planning department has recognized that certain provisions of the material site ordinance could be better clarified for the operators, public, and staff; and

WHEREAS, the planning commission and planning department received comments expressing concerns about dust, noise, safety, and aesthetics; and

WHEREAS, approximately 253 registered prior existing use material sites and approximately 99 conditional land use permits for material sites have been granted since 1996;

WHEREAS, the planning department receives numerous complaints regarding unreclaimed parcels registered as nonconforming prior existing material sites which have not been regulated by KPB; and

WHEREAS, the assembly established a material site work group by adoption of Resolution 2018-004 (Substitute) to engage in a collaborative discussion involving the public and industry to make recommendations regarding the material site code; and

WHEREAS, assembly Resolution 2018-025 extended the deadline for the final report to be submitted to the assembly, administration and planning commission to April 30, 2019; and

WHEREAS, certain additional conditions placed on material site permits would facilitate a reduction in the negative secondary impacts of material sites, e.g. dust, noise, safety, and unsightliness of material sites; and

WHEREAS, at its regularly scheduled meeting of November 12, 2019, the planning commission recommended approval by unanimous consent;

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

SECTION 1. That KPB 21.25.030 is hereby amended, as follows:

21.25.030. - Definitions.

Unless the context requires otherwise, the following definitions apply to CLUPs:

Abandon means to cease or discontinue a use without intent to resume, but excluding short-term interruptions to use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility or during normal periods of vacation or seasonal closure. An "intent to resume" can be shown through continuous operation of a portion of the facility, maintenance of utilities, or outside proof of continuance, e.g., bills of lading or delivery records. Abandonment also means the cessation of use, regardless of voluntariness, for a specified period of time.

Animal feeding operation means a lot or facility (other than an aquatic animal production facility) where animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period.

a. The same animals need not remain on the lot for 45 days or more; rather, some animals are fed or maintained on the lot 45 days out of any 12-month period, and

b. Animals are "maintained" for purposes of this ordinance when they are confined in an area where waste is generated and/or concentrated or are watered, cleaned, groomed, or medicated in a confined area, even if the confinement is temporary.

c. Two or more animal feeding operations under common ownership are considered, for the purposes of these regulations, to be a single animal feeding operation if they adjoin each other.

d. Slaughterhouses are animal feeding operations.

Animal unit means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighting [weighing] over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

Animal waste means animal excrement, animal carcasses, feed wasted, process wastewaters or any other waste associated with the confinement of animals from an animal feeding operation.

Animal waste management system means a combination of structures and nonstructural practices serving an animal feeding operation that provides for the collection, treatment, disposal, distribution, storage and land application of animal waste.

Aquifer means a subsurface formation that contains sufficient water-saturated permeable material to yield economical quantities of water to wells and springs.

Aquifer-confining layer means that layer of relatively impermeable soil below an aquifer, typically clay, which confines water.

Assisted living home means a residential facility that serves three or more adults who are not related to the owner by blood or marriage, or that receives state or federal payment for service of the number of adults served. The services and activities may include, but are not limited to, housing and food services to its residents, assistance with activities of daily living, and personal assistance, and that complies with Alaska Statutes 47.32.0101 – 47.60.900, as amended.

Child care facility means a place where child care is regularly provided for children under the age of 12 for periods of time that are less than 24 hours in duration and that is licensed pursuant to AS 47.35.005 et seq., excluding child care homes and child care group homes, as currently written or hereafter amended.

Commercial means any provision of services, sale of goods, or use operated for production of income whether or not income is derived, including sales, barter, rental, or trade of goods and services.

Concentrated animal feeding operation (CAFO) means an animal feeding operation confining at least: (1) 1,000 swine weighing at least approximately 55 pounds; (2) 1,000 slaughter and feeder cattle; (3) 700 mature dairy cattle; (4) 500 horses; (5) 10,000 sheep or lambs; (6) 55,000 turkeys; (7) 100,000 laying hens or broilers (if the facility has continuous overflow watering); (8) 30,000 laying hens or broilers (if the facility has a liquid manure system); (9) 5,000 ducks; (10) 1,000 animal units; or (11) a combination of the above resulting in at least 1,000 animal units. Each individual parcel upon which a CAFO is located is a separate CAFO unless they adjoin each other.

Conditioning or processing material means a value-added process including batch plants, asphalt plants, screening, washing, and crushing by use of machinery.

Correctional community residential center (CCRC) means a community residential center, other than a correctional institution, for the short-term or temporary detention of prisoners in transition from a correctional institution, performing restitution, or undergoing rehabilitation or recovery from a legal infirmity. CCRCs may not be used for detention of prisoners who pose a threat or danger to the public for violent or sexual misconduct without imprisonment or physical confinement under guard or twenty-four-hour physical supervision. The determination of whether a prisoner poses a threat or danger to the public for violent or sexual misconduct without imprisonment or physical confinement under guard or twenty-four-hour physical supervision shall be made by the commissioner of corrections for state prisoners and the United States Attorney General, or the U.S. Director of Bureau of Prisons for federal prisoners.

Correctional institution means a facility other than a correctional community residential center providing for the imprisonment or physical confinement or detention of prisoners under guard or twenty-four-hour physical supervision, such as prisons, prison farms, jails, reformatories, penitentiaries, houses of detention, detention centers, honor camps, and similar facilities.

Development plan means a plan created to describe a proposed development on a specific building site excluding material sites under KPB 21.29.020.

Disturbed includes active excavation and all areas necessary to use a parcel as a material site including but not limited to berms, stockpiles, and excavated areas excluding all areas reclaimed for alternate post mining land uses.

[*EXHAUSTED* MEANS THAT ALL MATERIAL OF A COMMERCIAL QUALITY IN A SAND, GRAVEL, OR MATERIAL SITE HAS BEEN REMOVED.]

Federal prisoners means offenders in the custody or control or under the care or supervision of the United States Attorney General or the Bureau of Prisons.

Groundwater means, in the broadest sense, all subsurface water, more commonly that part of the subsurface water in the saturated zone.

Haul route includes the roads used to haul materials from the permit area to a roadway designated as collector, arterial or interstate by the Alaska Department of Transportation & Public Facilities.

Liquid manure or *liquid animal waste system* means any animal waste management system which uses water as the primary carrier of such waste into a primary retention structure.

Multi-purpose senior center is a facility where persons 60 years of age or older are provided with services and activities suited to their particular needs. The

services and activities may include, but are not limited to, health examinations, legal assistance, recreation programs, general social activities, telephone reassurance programs, nutrition classes, meals at minimum cost, counseling, protective services, programs for shut-ins and education programs, and that complies with Alaska Statutes 47.60.010—47.60.090, as currently written or hereafter amended.

Permit area includes all excavation, processing, buffer and haul route areas of a CLUP or counter permit.

Person shall include any individual, firm, partnership, association, corporation, cooperative, or state or local government.

Prisoner means:

a. a person held under authority of state law in official detention as defined in AS 11.81.900;

b. includes a juvenile committed to the custody of the Alaska Department of Corrections Commissioner when the juvenile has been charged, prosecuted, or convicted as an adult.

Private school is a school comprised of kindergarten through 12th grade, or any combination of those grades, that does not receive direct state or federal funding and that complies with either Alaska Statute 14.45.030 or 14.45.100—14.45.130, as currently written or hereafter amended.

Public school is a school comprised of kindergarten through 12th grade, or any combination of those grades, that is operated by the State of Alaska or any political subdivision of the state.

Sand, gravel or material site means an area used for extracting, quarrying, or conditioning gravel or substances from the ground that are not subject to permits through the state location (mining claim) system (e.g., gold, silver, and other metals), nor energy minerals including but not limited to coal, oil, and gas.

Seasonal high groundwater table means the highest level to which the groundwater rises on an annual basis.

Senior housing project means senior housing as defined for purposes of construction or operation in 15 Alaska Administrative Code 151.950(c), as currently written or hereafter amended.

Stable condition means the rehabilitation, where feasible, of the physical environment of the site to a condition that allows for the reestablishment of

renewable resources on the site within a reasonable period of time by natural processes.

Surface water means water on the earth's surface exposed to the atmosphere such as rivers, lakes, and creeks.

Topsoil means material suitable for vegetative growth.

Vicinity means the same as the area of notification.

Waterbody means any lake, pond, stream, riparian wetland, or groundwater into which storm water runoff is directed.

Water source means a well, spring or other similar source that provides water for human consumptive use.

SECTION 2. That KPB 21.29 is hereby amended, as follows:

CHAPTER 21.29. MATERIAL SITE PERMITS

21.29.010. Material extraction exempt from obtaining a permit.

A. Material extraction which disturbs an area of less than one acre that is not in a mapped flood plain or subject to 21.29.010(B), does not enter the water table, and does not cross property boundaries, does not require a permit. There will be no excavation within 20 feet of a right-of-way or within ten feet of a lot line.

B. Material extraction taking place on dewatered bars within the confines of the Snow River and the streams within the Seward-Bear Creek Flood Service Area does not require a permit, however, operators subject to this exemption shall provide the planning department with the information required by KPB 21.29.030(A)(1), (2), (6), (7) and a current flood plain development permit prior to beginning operations.

C. A prior existing use under KPB 21.29.120 does not require a material extraction permit, but a floodplain development permit is required for all activities within any mapped special flood hazard area.

D. Material extraction incidental to site development does not require a permit when an approved site development plan is on file with the planning department. Site development plans are approved by the planning director and are valid for one year. The site development plan may be renewed on an annual basis subject to the planning director's approval.

21.29.020. Material extraction and activities requiring a permit.

A. *Counter permit.* A counter permit is required for material extraction which disturbs no more than 2.5 cumulative acres and does not enter the water table. Counter permits are approved by the planning director, and are not subject to the notice requirements or planning commission approval of KPB 21.25.060. A counter permit is valid for a period of 12 months, with a possible 12-month extension.

B. *Conditional land use permit.* A conditional land use permit (CLUP) is required for material extraction which disturbs more than 2.5 cumulative acres, or material extraction of any size that enters the water table. A CLUP is required for materials processing. A CLUP is valid for a period of five years. The provisions of KPB Chapter 21.25 are applicable to material site CLUPS and the provisions of KPB 21.25 and 21.29 are read in harmony. If there is a conflict between the provisions of KPB 21.25 and 21.29, the provisions of KPB 21.29 are controlling.

21.29.030. Application procedure.

A. In order to obtain a counter permit or CLUP, an applicant shall first complete and submit to the borough planning department a permit application, along with the fee listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees. The planning director may determine that certain contiguous parcels are eligible for a single permit. The application shall include the following items:

1. Legal description of the parcel, KPB tax parcel ID number, and identification of whether the permit is for the entire parcel, or a specific location within a parcel;

2. Expected life span of the material site;

3. A buffer plan consistent with KPB 21.29.050(A)(2);

4. Reclamation plan consistent with KPB 21.29.060;

5. The depth of excavation;

6. Type of material to be extracted and type of equipment to be used;

7. Any voluntary permit conditions the applicant proposes. Failure to include a proposed voluntary permit condition in the application does not preclude the applicant from proposing or agreeing to voluntary permit conditions at a later time;

8. Surface water protection measures, if any, for adjacent properties designed by a civil engineer, including the use of diversion channels, interception ditches, on-site collection ditches, sediment ponds and traps, and silt fence;

9. A site plan and field verification prepared by a professional surveyor licensed and registered in the State of Alaska, including the following information:

   a. Location of excavation, and, if the site is to be developed in phases, the life span and expected reclamation date for each phase;

   b. Proposed buffers consistent with KPB 21.29.050(A)(2), or alternate buffer plan;

   c. Identification of all encumbrances, including, but not limited to easements;

   d. Points of ingress and egress. Driveway permits must be acquired from either the state or borough as appropriate prior to the issuance of the material site permit;

   e. Anticipated haul routes;

   f. Location and [DEPTH] elevation of test holes, and depth of groundwater, if encountered between May and December. At least one test hole per ten acres of excavated area is required to be dug. The test holes shall be at least four feet below the proposed depth of excavation;

   g. Location of wells of adjacent property owners within 300 feet of the proposed parcel boundary;

   h. Location of any water body on the parcel, including the location of any riparian wetland as determined by ["WETLAND MAPPING AND CLASSIFICATION OF THE KENAI LOWLAND, ALASKA" MAPS CREATED BY THE KENAI WATERSHED FORUM] best available data;

   [I. SURFACE WATER PROTECTION MEASURES FOR ADJACENT PROPERTIES, INCLUDING THE USE OF DIVERSION CHANNELS, INTERCEPTION DITCHES, ON-SITE COLLECTION DITCHES, SEDIMENT PONDS AND TRAPS, AND SILT FENCE; PROVIDE DESIGNS FOR SUBSTANTIAL STRUCTURES; INDICATE WHICH

STRUCTURES WILL REMAIN AS PERMANENT FEATURES AT THE CONCLUSION OF OPERATIONS, IF ANY;]

[J]i. Location of any processing areas on parcel, if applicable;

[K]j. North arrow;

[L]k. The scale to which the site plan is drawn;

[M]l. Preparer's name, date and seal;

[N]m. Field verification shall include staking the boundary of the parcel at sequentially visible intervals. The planning director may grant an exemption in writing to the staking requirements if the parcel boundaries are obvious or staking is unnecessary.

B. In order to aid the planning commission or planning director's decision-making process, the planning director shall provide vicinity, aerial, land use, and ownership maps for each application and may include additional information.

21.29.040. Standards for sand, gravel or material sites.

A. These material site regulations are intended to protect against aquifer disturbance, road damage, physical damage to adjacent properties, dust, noise, and visual impacts. Only the conditions set forth in KPB 21.29.050 may be imposed to meet these standards:

1. Protects against the lowering of water sources serving other properties;

2. Protects against physical damage to [OTHER] adjacent properties;

3. [MINIMIZES] Protects against off-site movement of dust;

4. [MINIMIZES] Protects against noise disturbance to other properties;

5. [MINIMIZES] Protects against visual impacts of the material site; [AND]

6. Provides for alternate post-mining land uses[.];

7. Protects Receiving Waters against adverse effects to fish and wildlife habitat;

8. Protects against traffic impacts; and

9. Provides consistency with the objectives of the Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents.

21.29.050. Permit conditions.

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

1. [*PARCEL]Permit boundaries.* [ALL BOUNDARIES OF THE SUBJECT PARCEL] The buffers and any easements or right-of-way abutting the proposed permit area shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter. Field verification and staking will require the services of a professional land surveyor. Stakes shall be in place [AT TIME OF APPLICATION] prior to issuance of the permit.

[2. *BUFFER ZONE.* A BUFFER ZONE SHALL BE MAINTAINED AROUND THE EXCAVATION PERIMETER OR PARCEL BOUNDARIES. WHERE AN EASEMENT EXISTS, A BUFFER SHALL NOT OVERLAP THE EASEMENT, UNLESS OTHERWISE CONDITIONED BY THE PLANNING DIRECTOR OR PLANNING COMMISSION.

A. THE BUFFER ZONE SHALL PROVIDE AND RETAIN A BASIC BUFFER OF:

I. 50 FEET OF UNDISTURBED NATURAL VEGETATION, OR

II. A MINIMUM SIX-FOOT EARTHEN BERM WITH AT LEAST A 2:1 SLOPE, OR

III. A MINIMUM SIX-FOOT FENCE.

B. A 2:1 SLOPE SHALL BE MAINTAINED BETWEEN THE BUFFER ZONE AND EXCAVATION FLOOR ON ALL INACTIVE SITE WALLS. MATERIAL FROM THE AREA DESIGNATED FOR THE 2:1 SLOPE MAY BE REMOVED IF SUITABLE, STABILIZING MATERIAL IS REPLACED WITHIN 30 DAYS FROM THE TIME OF REMOVAL.

C. THE PLANNING COMMISSION OR PLANNING DIRECTOR SHALL DESIGNATE ONE OR A COMBINATION OF THE ABOVE AS IT DEEMS APPROPRIATE. 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 PLANNING DIRECTOR.

D. BUFFERS SHALL NOT CAUSE SURFACE WATER DIVERSION WHICH NEGATIVELY IMPACTS ADJACENT PROPERTIES OR WATER BODIES. SPECIFIC FINDINGS ARE REQUIRED TO ALTER THE BUFFER REQUIREMENTS OF KPB 21.29.050(A)(2)(A) IN ORDER TO MINIMIZE NEGATIVE IMPACTS FROM SURFACE WATER DIVERSION. FOR PURPOSES OF THIS SECTION, SURFACE WATER DIVERSION IS DEFINED AS EROSION, FLOODING, DEHYDRATION OR DRAINING, OR CHANNELING. NOT ALL SURFACE WATER DIVERSION RESULTS IN A NEGATIVE IMPACT.

E. AT ITS DISCRETION, THE PLANNING COMMISSION MAY WAIVE BUFFER REQUIREMENTS WHERE THE TOPOGRAPHY OF THE PROPERTY OR THE PLACEMENT OF NATURAL BARRIERS MAKES SCREENING NOT FEASIBLE OR NOT NECESSARY. BUFFER REQUIREMENTS SHALL BE MADE IN CONSIDERATION OF AND IN ACCORDANCE WITH EXISTING USES OF ADJACENT PROPERTY AT THE TIME OF APPROVAL OF THE PERMIT. THERE IS NO REQUIREMENT TO BUFFER THE MATERIAL SITE FROM USES WHICH COMMENCE AFTER THE APPROVAL OF THE PERMIT.]

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 earthen berm with at least a 2/1 slope or a combination thereof.

b. A 2:1 slope shall be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.

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.

e. 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, or a minimum six-foot fence or a combination thereof; unless the permittee proposes another solution approved by the planning commission or planning director, as applicable, to meet this condition.

f. The buffer requirements may be waived by the planning commission or planning director, as applicable, where the topography of the property or the placement of natural barriers makes screening not feasible or unnecessary.

g. There is no requirement to buffer a material site from uses that commence after approval of the permit.

h. When a buffer area has been denuded prior to review of the application by the planning commission or planning director revegetation may be required.

3. *Processing.* In the case of a CLUP, any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries. At its discretion, the planning commission may waive the 300-foot processing distance requirement, or allow a lesser distance in consideration of and in accordance with existing uses of [OF ADJACENT PROPERTY AT THE TIME] the properties in the vicinity at the time of approval of the permit.

4. *Water source separation.*

a. All permits shall be issued with a condition which prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance.

b. All counter permits shall be issued with a condition which requires that a four-foot vertical separation [FROM]between extraction operations and the seasonal high water table be maintained.

c. All CLUPS shall be issued with a condition which requires that a [TWO] four-foot vertical separation [FROM]between

extraction operations and the seasonal high water table be maintained.

d. There shall be no dewatering either by pumping, ditching or some other form of draining unless an exemption is granted by the planning commission. The exemption for dewatering may be granted if the operator provides a statement under seal and supporting data from a duly licensed and qualified impartial civil engineer, that the dewatering will not lower any of the surrounding property's water systems and the contractor posts a bond for liability for potential accrued damages.

5. *Excavation in the water table.* Excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission based on the following:

a. Certification by a qualified independent civil engineer or professional hydrogeologist that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources.

b. The installation of a minimum of three water monitoring tubes or well casings as recommended by a qualified independent civil engineer or professional hydrogeologist adequate to determine flow direction, flow rate, and water elevation.

c. Groundwater elevation, flow direction, and flow rate for the subject parcel, measured in three-month intervals by a qualified independent civil engineer or professional hydrogeologist, for at least one year prior to application. Monitoring tubes or wells must be kept in place, and measurements taken, for the duration of any excavation in the water table.

d. Operations shall not breach an aquifer-confining layer.

6. *Waterbodies.*

a. An undisturbed buffer shall be left and no earth material extraction activities shall take place within [100] 200 linear feet from excavation limits and the ordinary high water level of surface water bodies such as a lake, river, stream, [OR OTHER WATER BODY, INCLUDING] riparian wetlands and mapped floodplains as defined in KPB 21.06. This regulation shall not apply to man-made waterbodies being constructed during the course of the materials extraction activities. In order to prevent

discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.

b. Counter permits and CLUPS may contain additional conditions addressing surface water diversion.

7. *Fuel storage.* Fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.

8. *Roads.* Operations shall be conducted in a manner so as not to damage borough roads as required by KPB 14.40.175 and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.

9. *Subdivision.* Any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit. The planning director may issue a written exemption from the amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a material site and all original permit conditions can be met.

10. *Dust control.* Dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.

11. *Hours of operation.* [ROCK CRUSHING EQUIPMENT SHALL NOT BE OPERATED BETWEEN 10:00 P.M. AND 6:00 A.M.]

a. Processing equipment shall not be operated between 7:00 p.m. and 6:00 a.m.

b. The planning commission may grant exceptions to increase the hours of operation and processing based on surrounding land uses, topography, screening the material site from properties in the vicinity and conditions placed on the permit by the planning commission to mitigate the noise, dust and visual impacts caused by the material site.

12. *Reclamation.*

    a. Reclamation shall be consistent with the reclamation plan approved by the planning commission or planning director as appropriate in accord with KPB 21.29.060.

    b. [AS A CONDITION OF ISSUING THE PERMIT, THE APPLICANT SHALL SUBMIT A RECLAMATION PLAN AND POST A BOND TO COVER THE ANTICIPATED RECLAMATION COSTS IN AN AMOUNT TO BE DETERMINED BY THE PLANNING DIRECTOR. THIS BONDING REQUIREMENT SHALL NOT APPLY TO SAND, GRAVEL OR MATERIAL SITES FOR WHICH AN EXEMPTION FROM STATE BOND REQUIREMENTS FOR SMALL OPERATIONS IS APPLICABLE PURSUANT TO AS 27.19.050.] The applicant shall operate the material site consistent with the approved reclamation plan and provide bonding pursuant to 21.29.060(B). This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.

13. *Other permits.* Permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC air and water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives. Any violation of these regulations or permits reported to or observed by borough personnel will be forwarded to the appropriate agency for enforcement.

14. [*VOLUNTARY]Volunteered permit conditions.* Conditions may be included in the permit upon agreement of the permittee and approval of the planning commission for CLUPs or the planning director for counter permits. Such conditions must be consistent with the standards set forth in KPB 21.29.040(A). Planning commission approval of such conditions shall be contingent upon a finding that the conditions will be in the best interest of the borough and the surrounding property owners. [VOLUNTARY] Volunteered permit

conditions apply to the subject parcel and operation, regardless of a change in ownership. A change in [VOLUNTARY] volunteered permit conditions may be proposed [AT] by permit [RENEWAL OR AMENDMENT] modification.

15. *Signage.* For permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access, whichever is more visible. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.

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.

17. *Sound level.*

    a. No sound resulting from the materials extraction activities shall create a sound level, when measured at or within the property boundary of the adjacent land, that exceeds 75 dB(A).

    b. For any sound that is of short duration between the hours of 7 a.m. and 7 p.m. the levels may be increased by:

        i. Five dB(A) for a total of 15 minutes in any one hour; or

        ii. Ten dB(A) for a total of five minutes in any hour; or

        iii. Fifteen db(A) for a total of one and one-half minutes in any one-hour period.

    c. At its discretion, the planning commission or planning director, as applicable, may reduce or waive the sound level requirements on any or all property boundaries. Sound level requirements shall be made in consideration of and in accordance with existing uses of the properties in the vicinity at the time of approval of the permit.

    d. Mandatory condition KPB 21.29.050(A)(17) shall expire 365 days from adoption of KPB 21.29.050(A)(17) unless extended or modified by the assembly.

18. *Reverse signal alarms*. Reverse signal alarms, used at the material site on loaders, excavators, and other earthmoving equipment shall be more technically advanced devices; such as, a multi-frequency "white noise" alarms rather than the common, single (high-pitch) tone alarms. At its discretion, the planning commission or planning director, as applicable, may waive this requirement or a portion of this requirement. The waiver of this requirement shall be made in consideration of and in accordance with existing uses of the properties in the vicinity at the time of approval of the permit.

19. *Ingress and egress*. The planning commission or planning director may determine the points of ingress and egress for the material site. The permittee is not required to construct haul routes outside the parcel boundaries of the material site. Driveway authorization must be acquired, from either the state through an "Approval to Construct" or a borough road service area as appropriate, prior to issuance of a material site permit when accessing a public right-of-way.

20. *Dust suppression*. Dust suppression shall be required when natural precipitation is not adequate to suppress the dust generated by the material site traffic on haul routes. Based on surrounding land uses the planning commission or planning director, as applicable, may waive or reduce the requirement for dust suppression on haul routes.

21. *Surface water protection.* Use of surface water protection measures as specified in KPB 21.29.030(A)(8) must be approved by a licensed civil engineer.

22. *Groundwater elevation.* All material sites must maintain one monitoring tube per ten acres of excavated area four feet below the proposed excavation.

23. *Setback.* Material site excavation areas shall be 250-feet from the property boundaries of any local option zoning district, existing public school ground, private school ground, college campus, child care facility, multi-purpose senior center, assisted living home, and licensed health care facility. If overlapping, the buffer areas of the excavation shall be included in the 250-foot setback.

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.

21.29.060. Reclamation plan.

A. All material site permit applications require an overall reclamation plan along with a five-year reclamation plan. A site plan for reclamation shall be required including a scaled drawing with finished contours. A five-year reclamation plan must be submitted with a permit extension request.

B. The applicant shall revegetate with a non-invasive plant species and reclaim all disturbed land [UPON EXHAUSTING THE MATERIAL ON-SITE, OR WITHIN A PRE-DETERMINED TIME PERIOD FOR LONG-TERM ACTIVITIES, SO AS TO LEAVE THE LAND IN A STABLE CONDITION. RECLAMATION MUST OCCUR FOR ALL EXHAUSTED AREAS OF THE SITE EXCEEDING FIVE ACRES BEFORE A FIVE-YEAR RENEWAL PERMIT IS ISSUED, UNLESS OTHERWISE REQUIRED BY THE PLANNING COMMISSION. IF THE MATERIAL SITE IS ONE ACRE OR LESS IN SIZE AND HAS BEEN GRANTED A CLUP DUE TO EXCAVATION IN THE WATER TABLE, RECLAMATION MUST BE PERFORMED AS SPECIFIED BY THE PLANNING COMMISSION OR PLANNING DIRECTOR IN THE CONDITIONAL USE OR COUNTER PERMIT] within the time period approved with the reclamation plan so as to leave the land in a stable condition. Bonding shall be required at $2,000.00 per acre for all acreage included in the current five-year reclamation plan. In the alternative, the planning director may accept a civil engineer's estimate for determining the amount of bonding. If the applicant is bonded with the state, the borough's bonding requirement is waived. Compliance with reclamation plans shall be enforced under KPB 21.50.

C. The following measures must be considered in the [PREPARING] preparation, approval and [IMPLEMENTING] implementation of the reclamation plan, although not all will be applicable to every reclamation plan.

1. Topsoil that is not promptly redistributed to an area being reclaimed will be separated and stockpiled for future use. [THIS MATERIAL WILL BE PROTECTED FROM EROSION AND CONTAMINATION BY ACIDIC OR TOXIC MATERIALS AND PRESERVED IN A CONDITION SUITABLE FOR LATER USE.]

2. The area will be backfilled, graded and recontoured using strippings, overburden, and topsoil [TO A CONDITION THAT ALLOWS FOR THE REESTABLISHMENT OF RENEWABLE RESOURCES ON THE SITE WITHIN A REASONABLE PERIOD OF TIME. IT WILL BE STABILIZED TO A CONDITION THAT WILL ALLOW SUFFICIENT MOISTURE FOR

REVEGETATION] so that it will be stabilized to a condition that will allow for the revegetation as required by KPB 21.29.060(B).

3. [SUFFICIENT QUANTITIES OF STOCKPILED OR IMPORTED TOPSOIL WILL BE SPREAD OVER THE RECLAIMED AREA TO A DEPTH OF FOUR INCHES TO PROMOTE NATURAL PLANT GROWTH THAT CAN REASONABLY BE EXPECTED TO REVEGETATE THE AREA WITHIN FIVE YEARS. THE APPLICANT MAY USE THE EXISTING NATURAL ORGANIC BLANKET REPRESENTATIVE OF THE PROJECT AREA IF THE SOIL IS FOUND TO HAVE AN ORGANIC CONTENT OF 5% OR MORE AND MEETS THE SPECIFICATION OF CLASS B TOPSOIL REQUIREMENTS AS SET BY ALASKA TEST METHOD (ATM) T-6.] The [MATERIAL] topsoil used for reclamation shall be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by a licensed engineer.

4. Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation shall be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.

5. [PEAT AND T]Topsoil mine operations shall ensure a minimum of [TWO] four inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).

6. Ponding may be used as a reclamation method as approved by the planning commission.

D. The five-year reclamation plan shall describe the total acreage to be reclaimed [EACH YEAR, A LIST OF EQUIPMENT (TYPE AND QUANTITY) TO BE USED IN RECLAMATION, AND A TIME SCHEDULE OF RECLAMATION MEASURES] relative to the total excavation plan.

21.29.070. Permit extension and revocation.

A. Conditional land use permittees must submit a request in writing for permit extension every five years after the permit is issued. Requests for permit extension must be made at least 30 days prior to permit expiration. Counter permittees must submit any request for a 12-month extension at least 30 days prior to the expiration of the original 12-month permit period.

B. A permit extension certificate for a CLUP may be granted by the planning director after 5 years, and after one year for a counter permit where no modification to operations or conditions are proposed.

C. Permit extension may be denied if: (1) reclamation required by this chapter and the original permit has not been performed; (2) the permittee is otherwise in noncompliance with the original permit conditions; or (3) the permittee has had a permit violation in the last two years and has not fulfilled compliance requests.

D. A modification application shall be processed pursuant to KPB 21.29.030-050 with public notice given as provided by KPB 21.25.060 when operators request modification of their permit conditions based on changes in operations set forth in the modification application.

E. There shall be no fee for permit extensions approved by the planning director. The fee for a permit modification processed under KPB 21.29.070(D) will be the same as an original permit application in the amount listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees.

F. Failure to submit a request for extension will result in the expiration of the permit. The borough may issue a permit termination document upon expiration pursuant to KPB 21.29.080. Once a permit has expired, a new permit application approval process is required in order to operate the material site.

G. Permits may be revoked pursuant to KPB 21.50. 21.29.080. - Permit termination.

When a permit expires, is revoked, or a permittee requests termination of their permit, a review of permit conditions and site inspections will be conducted by the planning department to ensure code compliance and verify site reclamation prior to termination. When the planning director determines that a site qualifies for termination, a termination document shall be issued to the permittee.

21.29.090. Permit modifications.

If a permittee revises or intends to revise operations (at a time other than permit extension) so that they are no longer consistent with the original application, a permit modification is required. The planning director shall determine whether the revision to operations requires a modification. Permit modification shall be processed in the same manner as original permits.

21.29.100. Recordation.

All permits, permit extensions, modified permits, prior existing uses, and terminations shall be recorded. Failure to record a material site document does not affect the validity of the documents.

21.29.110. Violations.

A. Violations of this chapter shall be governed by KPB 21.50.

B. In addition to the remedies provided in KPB 21.50, the planning director may require bonding in a form and amount adequate to protect the borough's interests for an owner or operator who has been cited for three violations of KPB 21.50, 21.25, and 21.29 within a three-year period. The violations need not be committed at the same material site. Failure to provide requested bonding may result in permit revocation proceedings.

21.29.120. Prior existing uses.

A. Material sites are not held to the standards and conditions of a CLUP if a prior existing use (PEU) determination was granted for the parcel in accordance with KPB 21.29.120(B). To qualify as a PEU, a parcel's use as a material site must have commenced or have been operated after May 21, 1986, and prior to May 21, 1996, provided that the subject use continues in the same location. In no event shall a prior existing use be expanded beyond the smaller of the lot, block, or tract lines as they existed on May 21, 1996. If a parcel is further subdivided after May 21, 1996, the pre-existing use may not be expanded to any lot, tract, or parcel where extraction had not occurred before or on February 16, 1999. If a parcel is subdivided where extraction has already occurred, the prior existing use is considered abandoned, and a CLUP must be obtained for each parcel intended for further material site operations. The parcel owner may overcome this presumption of abandonment by showing that the subdivision is not inconsistent with material site operation. If a parcel subject to a prior existing use is conveyed, the prior existing use survives the conveyance.

B. Owners of sites must have applied to be registered as a prior existing use prior to January 1, 2001.

C. [ANY PRIOR EXISTING USE THAT HAS NOT OPERATED AS A MATERIAL SITE BETWEEN MAY 21, 1996, AND MAY 21, 2011, IS CONSIDERED ABANDONED AND MUST THEREAFTER COMPLY WITH THE PERMIT REQUIREMENTS OF THIS CHAPTER. THE PLANNING DIRECTOR SHALL DETERMINE WHETHER A PRIOR EXISTING USE HAS BEEN ABANDONED. AFTER GIVING NOTICE TO THE PARCEL OWNER THAT A PEU IS CONSIDERED ABANDONED, A PARCEL OWNER MAY

PROTEST THE TERMINATION OF THE PEU BY FILING WRITTEN NOTICE WITH THE PLANNING DIRECTOR ON A FORM PROVIDED BY THE PLANNING DEPARTMENT. WHEN A PROTEST BY A PARCEL OWNER IS FILED, NOTICE AND AN OPPORTUNITY TO MAKE WRITTEN COMMENTS REGARDING PRIOR EXISTING USE STATUS SHALL BE ISSUED TO OWNERS OF PROPERTY WITHIN A ONE-HALF MILE RADIUS OF THE PARCEL BOUNDARIES OF THE SITE. THE OWNER OF THE PARCEL SUBJECT TO THE PRIOR EXISTING USE MAY SUBMIT WRITTEN INFORMATION, AND THE PLANNING DIRECTOR MAY GATHER AND CONSIDER ANY INFORMATION RELEVANT TO WHETHER A MATERIAL SITE HAS OPERATED. THE PLANNING DIRECTOR MAY CONDUCT A HEARING IF HE OR SHE BELIEVES IT WOULD ASSIST THE DECISION-MAKING PROCESS. THE PLANNING DIRECTOR SHALL ISSUE A WRITTEN DETERMINATION WHICH SHALL BE DISTRIBUTED TO ALL PERSONS MAKING WRITTEN COMMENTS. THE PLANNING DIRECTOR'S DECISION REGARDING TERMINATION OF THE PRIOR EXISTING USE STATUS MAY BE APPEALED TO THE PLANNING COMMISSION WITHIN 15 DAYS OF THE DATE OF THE NOTICE OF DECISION.]

The owner of a material site that has been granted a PEU determination shall provide proof of compliance with AS 27.19.030 – 050 concerning reclamation to the planning department no later than July 1, 2022. The proof shall consist of an Alaska Department of Natural Resources (DNR) approved reclamation plan and receipt for bonding or a letter of intent filed with DNR.

1. The planning department may request proof of continued compliance with AS 27.19.030 – 050 on an annual basis.

2. Pursuant to KPB 21.29.110 the enforcement process and remedies set forth in KPB 21.50 shall govern if the proof that the statutory requirements contained in AS 27.19.030-050 is not provided to the planning department.

SECTION 3. That KPB 21.50.055 is hereby amended, 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 20.10.030(A)	Offering land for sale without final plat approval	$300.00
KPB 20.10.030(B)	Filing/recording unapproved subdivision/plat	$300.00
KPB 20.10.030(C)	Violation of subdivision code or condition	$300.00
KPB 21.05.040(C)	Violation of variance conditions	$300.00
KPB 21.06.030(D)	Structure or activity prohibited by KPB 21.06	$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/Violation of SMFDA permit conditions/Floodplain Management	$300.00
KPB 21.06.050	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

CODE CHAPTER & SECTION	VIOLATION DESCRIPTION	DAILY FINE
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 Also applies to KPB 21.26 material site permits	$300.00
KPB 21.29.060	Violation of Reclamation Plan/Material Site Permits Also applies to KPB 21.26 material site permits	$300.00
KPB 21.29.120	Failure to Provide Reclamation Plan and Proof of Bonding or Letter of Intent	$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 Option Zoning	$300.00
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

CODE CHAPTER & SECTION	VIOLATION DESCRIPTION	DAILY FINE
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	$1,000.00
KPB 21.50.130(I)	Violation of an enforcement order	$1,000.00

SECTION 4. That this ordinance shall become effective upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2022.

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

01/18/22 Vote on motion to postpone to 02/01/22:

Yes:	Bjorkman, Derkevorkian, Elam, Tupper, Johnson
No:	Chesley, Cox, Ecklund
Absent:	Hibbert

02/01/22 Vote on motion to table:

Yes:	Bjorkman, Chesley, Cox, Derkevorkian, Ecklund, Elam, Hibbert, Tupper, Johnson
No:	None
Absent:	None

Introduced by:	Elam, Derkevorkian
Substitute Introduced:	02/01/22
O2021-41 (Mayor, Johnson)	See Original Ordinance for Prior History
Action:	Tabled
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2021-41
(ELAM, DERKEVORKIAN) SUBSTITUTE

AN ORDINANCE AMENDING KPB 21.29, KPB 21.25, AND KPB 21.50.055 REGARDING MATERIAL SITE PERMITS, APPLICATIONS, CONDITIONS, AND PROCEDURES

WHEREAS, Goal 2, Focus Area: Land Use, Objective A of the 2019 Kenai Peninsula Borough Comprehensive Plan is to establish policies to minimize land use conflicts, protect natural systems, and support individual land use freedoms; and

WHEREAS, Goal 2, Focus Area: Land Use, Objective A, Strategy 2 of the 2019 Comprehensive Plan is to update the Borough's existing conditional use regulations for material extraction to better address reoccurring land use conflicts; and

WHEREAS, Goal 2, Focus Area: Land Use, Objective A, Strategy 2a of the 2019 Comprehensive Plan is to clarify the broad purpose of the conditional use process and clear parameters for allowable conditional uses that include reasonable, project-specific conditions that reduce impacts on surrounding use; and

WHEREAS, Goal 2, Focus Area: Land Use, Objective A, Strategy 2d of the 2019 Comprehensive Plan is to complete improvements to the rules guiding gravel extraction, with the goal of providing an appropriate balance between providing access to affordable materials for development and quality of life for borough residents; and

WHEREAS, Goal 1 of the Mining and Minerals Processing section of the 1990 Kenai Peninsula Borough Coastal Management Program is to provide opportunities to explore, extract and process minerals, sand and gravel resources, while protecting environmental quality and other resource users; and

WHEREAS, an assembly subcommittee was formed in 2005 to review the material site code; and

WHEREAS, Ordinance 2006-01 (Substitute) codified as KPB 21.29 was adopted in 2006 after consideration of the subcommittee's report; and

WHEREAS, the planning department has been administering Ordinance 2006-01 (Substitute), codified as KPB 21.29 for 13 years; and

WHEREAS, KPB 21.25.040 requires a permit for the commencement of certain land uses within the rural district of the Kenai Peninsula Borough; and

WHEREAS, the planning department has recognized that certain provisions of the material site ordinance could be better clarified for the operators, public, and staff; and

WHEREAS, the planning commission and planning department received comments expressing concerns about dust, noise, safety; and

WHEREAS, approximately 253 registered prior existing use material sites and approximately 99 conditional land use permits for material sites have been granted since 1996;

WHEREAS, the planning department receives numerous complaints regarding unreclaimed parcels registered as nonconforming prior existing material sites which have not been regulated by KPB; and

WHEREAS, the assembly established a material site work group by adoption of resolution 2018-004 (Substitute) to engage in a collaborative discussion involving the public and industry to make recommendations regarding the material site code; and

WHEREAS, at its regularly scheduled meeting of November 12, 2019, the planning commission recommended approval by unanimous consent;

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

SECTION 1. That KPB 21.25.030 is hereby amended, as follows:

21.25.030. Definitions.

Unless the context requires otherwise, the following definitions apply to CLUPs:

Abandon means to cease or discontinue a use without intent to resume, but excluding short-term interruptions to use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility or during normal periods of vacation or seasonal closure. An "intent to resume" can be shown through continuous operation of a portion of the facility, maintenance of utilities, or outside proof of continuance, e.g., bills of lading or delivery records. Abandonment also means the cessation of use, regardless of voluntariness, for a specified period of time.

Animal feeding operation means a lot or facility (other than an aquatic animal production facility) where animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period.

a. The same animals need not remain on the lot for 45 days or more; rather, some animals are fed or maintained on the lot 45 days out of any 12-month period, and

b. Animals are "maintained" for purposes of this ordinance when they are confined in an area where waste is generated and/or concentrated or are watered, cleaned, groomed, or medicated in a confined area, even if the confinement is temporary.

c. Two or more animal feeding operations under common ownership are considered, for the purposes of these regulations, to be a single animal feeding operation if they adjoin each other.

d. Slaughterhouses are animal feeding operations.

Animal unit means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighting [weighing] over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

Animal waste means animal excrement, animal carcasses, feed wasted, process wastewaters or any other waste associated with the confinement of animals from an animal feeding operation.

Animal waste management system means a combination of structures and nonstructural practices serving an animal feeding operation that provides for the collection, treatment, disposal, distribution, storage and land application of animal waste.

Aquifer means a subsurface formation that contains sufficient water-saturated permeable material to yield economical quantities of water to wells and springs.

Aquifer-confining layer means that layer of relatively impermeable soil below an aquifer, typically clay, which confines water.

Assisted living home means a residential facility that serves three or more adults who are not related to the owner by blood or marriage, or that receives state or that receives state or federal payment for service of the number of adults served. The services and activities may include, but are not limited to, housing and food services to its residents, assistance with activities of daily living, and personal assistance, and that complies with Alaska Statutes 47.32.0101 – 47.60.900, as amended.

Child care facility means a place where child care is regularly provided for children under the age of 12 for periods of time that are less than 24 hours in duration and that is licensed pursuant to AS 47.35.005 et seq., excluding child care homes and child care group homes, as currently written or hereafter amended.

Commercial means any provision of services, sale of goods, or use operated for production of income whether or not income is derived, including sales, barter, rental, or trade of goods and services.

Concentrated animal feeding operation (CAFO) means an animal feeding operation confining at least: (1) 1,000 swine weighing at least approximately 55 pounds; (2) 1,000 slaughter and feeder cattle; (3) 700 mature dairy cattle; (4) 500 horses; (5) 10,000 sheep or lambs; (6) 55,000 turkeys; (7) 100,000 laying hens or broilers (if the facility has continuous overflow watering); (8) 30,000 laying hens or broilers (if the facility has a liquid manure system); (9) 5,000 ducks; (10) 1,000 animal units; or (11) a combination of the above resulting in at least 1,000 animal units. Each individual parcel upon which a CAFO is located is a separate CAFO unless they adjoin each other.

Conditioning or processing material means a value-added process including batch plants, asphalt plants, screening, washing, and crushing by use of machinery.

Correctional community residential center (CCRC) means a community residential center, other than a correctional institution, for the short-term or temporary detention of prisoners in transition from a correctional institution, performing restitution, or undergoing rehabilitation or recovery from a legal infirmity. CCRCs may not be used for detention of prisoners who pose a threat or danger to the public for violent or sexual misconduct without imprisonment or physical confinement under guard or twenty-four-hour physical supervision. The determination of whether a prisoner poses a threat or danger to the public for violent or sexual misconduct without imprisonment or physical confinement under guard or twenty-four-hour physical supervision shall be made by the commissioner of corrections for state prisoners and the United States Attorney General, or the U.S. Director of Bureau of Prisons for federal prisoners.

Correctional institution means a facility other than a correctional community residential center providing for the imprisonment or physical confinement or detention of prisoners under guard or twenty-four-hour physical supervision, such as prisons, prison farms, jails, reformatories, penitentiaries, houses of detention, detention centers, honor camps, and similar facilities.

Development plan means a plan created to describe a proposed development on a specific building site excluding material sites under KPB 21.29.020.

Disturbed includes active excavation and all areas necessary to use a parcel as a material site including but not limited to berms, stockpiles, and excavated areas excluding all areas reclaimed for alternate post mining land uses.

[*EXHAUSTED* MEANS THAT ALL MATERIAL OF A COMMERCIAL QUALITY IN A SAND, GRAVEL, OR MATERIAL SITE HAS BEEN REMOVED.]

Federal prisoners means offenders in the custody or control or under the care or supervision of the United States Attorney General or the Bureau of Prisons.

Groundwater means, in the broadest sense, all subsurface water, more commonly that part of the subsurface water in the saturated zone.

Liquid manure or *liquid animal waste system* means any animal waste management system which uses water as the primary carrier of such waste into a primary retention structure.

Multi-purpose senior center is a facility where persons 60 years of age or older are provided with services and activities suited to their particular needs. The services and activities may include, but are not limited to, health examinations, legal assistance, recreation programs, general social activities, telephone reassurance programs, nutrition classes, meals at minimum cost, counseling, protective services, programs for shut-ins and education programs, and that complies with Alaska Statutes 47.60.010—47.60.090, as currently written or hereafter amended.

Permit area includes all excavation, processing, buffer ~~and haul route~~ areas of a CLUP or counter permit.

Person shall include any individual, firm, partnership, association, corporation, cooperative, or state or local government.

Prisoner means:

a. a person held under authority of state law in official detention as defined in AS 11.81.900;

b. includes a juvenile committed to the custody of the Alaska Department of Corrections Commissioner when the juvenile has been charged, prosecuted, or convicted as an adult.

Private school is a school comprised of kindergarten through 12th grade, or any combination of those grades, that does not receive direct state or federal funding and that complies with either Alaska Statute 14.45.030 or 14.45.100—14.45.130, as currently written or hereafter amended.

Public school is a school comprised of kindergarten through 12th grade, or any combination of those grades, that is operated by the State of Alaska or any political subdivision of the state.

Sand, gravel or material site means an area used for extracting, quarrying, or conditioning gravel or substances from the ground that are not subject to permits through the state location (mining claim) system (e.g., gold, silver, and other metals), nor energy minerals including but not limited to coal, oil, and gas.

Seasonal high groundwater table means the highest level to which the groundwater rises on an annual basis.

Senior housing project means senior housing as defined for purposes of construction or operation in 15 Alaska Administrative Code 151.950(c), as currently written or hereafter amended.

Stable condition means the rehabilitation, where feasible, of the physical environment of the site to a condition that allows for the reestablishment of renewable resources on the site within a reasonable period of time by natural processes.

Surface water means water on the earth's surface exposed to the atmosphere such as rivers, lakes, and creeks.

Topsoil means material suitable for vegetative growth.

Waterbody means any lake, pond, stream, riparian wetland, or groundwater into which storm water runoff is directed.

Water source means a well, spring or other similar source that provides water for human consumptive use.

SECTION 2. That KPB 21.29 is hereby amended, as follows:

CHAPTER 21.29. MATERIAL SITE PERMITS

21.29.010. Material extraction exempt from obtaining a permit.

A. Material extraction which disturbs an area of less than one acre that is not in a mapped flood plain or subject to 21.29.010(B), does not enter the water table, and does not cross property boundaries, does not require a permit. There will be no excavation within 20 feet of a right-of-way or within ten feet of a lot line.

B. Material extraction taking place on dewatered bars within the confines of the Snow River and the streams within the Seward-Bear Creek Flood

Service Area does not require a permit, however, operators subject to this exemption shall provide the planning department with the information required by KPB 21.29.030(A)(1), (2), (6), (7) and a current flood plain development permit prior to beginning operations.

C. A prior existing use under KPB 21.29.120 does not require a material extraction permit, but a floodplain development permit is required for all activities within any mapped special flood hazard area.

D. Material extraction incidental to site development does not require a permit when an approved site development plan is on file with the planning department. Site development plans are approved by the planning director and are valid for one year. The site development plan may be renewed on an annual basis subject to the planning director's approval.

21.29.020. Material extraction and activities requiring a permit.

A. *Counter permit.* A counter permit is required for material extraction which disturbs no more than 2.5 cumulative acres and does not enter the water table. Counter permits are approved by the planning director, and are not subject to the notice requirements or planning commission approval of KPB 21.25.060. A counter permit is valid for a period of 12 months, with a possible 12-month extension.

B. *Conditional land use permit.* A conditional land use permit (CLUP) is required for material extraction which disturbs more than 2.5 cumulative acres, or material extraction of any size that enters the water table. [A CLUP IS REQUIRED FOR MATERIALS PROCESSING.] A CLUP is valid for a period of five years. The provisions of KPB Chapter 21.25 are applicable to material site CLUPS and the provisions of KPB 21.25 and 21.29 are read in harmony. If there is a conflict between the provisions of KPB 21.25 and 21.29, the provisions of KPB 21.29 are controlling

21.29.030. Application procedure.

A. In order to obtain a counter permit or CLUP, an applicant shall first complete and submit to the borough planning department a permit application, along with the fee listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees. The planning director may determine that certain contiguous parcels are eligible for a single permit. The application shall include the following items:

1. Legal description of the parcel, KPB tax parcel ID number, and identification of whether the permit is for the entire parcel, or a specific location within a parcel;

2. Expected life span of the material site;

3. A buffer plan consistent with KPB 21.29.050(A)(2);

4. Reclamation plan consistent with KPB 21.29.060;

5. The depth of excavation;

6. Type of material to be extracted and type of equipment to be used;

7. Any voluntary permit conditions the applicant proposes. Failure to include a proposed voluntary permit condition in the application does not preclude the applicant from proposing or agreeing to voluntary permit conditions at a later time;

8. Surface water protection measures, if any, for adjacent properties designed by a SWPPP certified individual, including the use of diversion channels, interception ditches, on-site collection ditches, sediment ponds and traps, and silt fence;

9. A site plan prepared by the site operator and field verification prepared by a professional surveyor licensed and registered in the State of Alaska, including the following information:

   a. Location of excavation, and, if the site is to be developed in phases, the life span and expected reclamation date for each phase;

   b. Proposed buffers consistent with KPB 21.29.050(A)(2), or alternate buffer plan;

   c. Identification of all encumbrances, including, but not limited to easements;

   d. Points of ingress and egress. Driveway permits must be acquired from either the state or borough as appropriate prior to the issuance of the material site permit;

   e. Anticipated haul routes;

   f. Location and [DEPTH] elevation of test holes, and depth of groundwater, if encountered between May and December. At least one test hole per ten acres of excavated area is required to be dug.

g. Location of wells of adjacent property owners within [300] 200 feet of the proposed parcel boundary;

h. Location of any water body on the parcel,

[I. SURFACE WATER PROTECTION MEASURES FOR ADJACENT PROPERTIES, INCLUDING THE USE OF DIVERSION CHANNELS, INTERCEPTION DITCHES, ON-SITE COLLECTION DITCHES, SEDIMENT PONDS AND TRAPS, AND SILT FENCE; PROVIDE DESIGNS FOR SUBSTANTIAL STRUCTURES; INDICATE WHICH STRUCTURES WILL REMAIN AS PERMANENT FEATURES AT THE CONCLUSION OF OPERATIONS, IF ANY;]

[J]i. Location of any processing areas on parcel, if applicable;

[K]j. North arrow;

[L]k. The scale to which the site plan is drawn;

[M]l. Preparer's name, date

[N]m. Field verification shall include staking the boundary of the parcel at sequentially visible intervals. The planning director may grant an exemption in writing to the staking requirements if the parcel boundaries are obvious or staking is unnecessary.

B. In order to aid the planning commission or planning director's decision-making process, the planning director shall provide vicinity, aerial, land use, and ownership maps for each application and may include additional information.

21.29.040. Standards for sand, gravel or material sites.

A. These material site regulations are intended to Minimize aquifer disturbance, road damage, physical damage to adjacent properties, dust, and noise. Only the conditions set forth in KPB 21.29.050 may be imposed to meet these standards:

1. [PROTECTS AGAINST] Minimizes the lowering of water sources serving other properties;

2. [PROTECTS AGAINST] Minimizes physical damage to [OTHER] adjacent properties;

3. Minimizes off-site movement of dust;

4. Minimizes noise disturbance to other properties;

5. [MINIMIZES VISUAL IMPACTS] Provides for alternate post-mining land uses.

21.29.050. Permit conditions.

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

1. [*PARCEL]Permit boundaries.* [ALL BOUNDARIES OF THE SUBJECT PARCEL] The buffers and any easements or right-of-way abutting the proposed permit area shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter. Field verification and staking will require the services of a professional land surveyor. Stakes shall be in place [AT TIME OF APPLICATION] prior to issuance of the permit.

[2. *BUFFER ZONE.* A BUFFER ZONE SHALL BE MAINTAINED AROUND THE EXCAVATION PERIMETER OR PARCEL BOUNDARIES. WHERE AN EASEMENT EXISTS, A BUFFER SHALL NOT OVERLAP THE EASEMENT, UNLESS OTHERWISE CONDITIONED BY THE PLANNING DIRECTOR OR PLANNING COMMISSION.

A. THE BUFFER ZONE SHALL PROVIDE AND RETAIN A BASIC BUFFER OF:

I. 50 FEET OF UNDISTURBED NATURAL VEGETATION, OR

II. A MINIMUM TEN FOOT EARTHEN BERM WITH AT LEAST A 2:1 SLOPE, OR

III. A MINIMUM SIX-FOOT FENCE.

B. A 2:1 SLOPE SHALL BE MAINTAINED BETWEEN THE BUFFER ZONE AND EXCAVATION FLOOR ON ALL INACTIVE SITE WALLS. MATERIAL FROM THE AREA DESIGNATED FOR THE 2:1 SLOPE MAY BE REMOVED IF SUITABLE, STABILIZING MATERIAL IS REPLACED WITHIN 90 DAYS FROM THE TIME OF REMOVAL.

C. THE PLANNING COMMISSION OR PLANNING DIRECTOR SHALL DESIGNATE ONE OR A COMBINATION OF THE ABOVE AS IT DEEMS APPROPRIATE. 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 PLANNING DIRECTOR.

D. BUFFERS SHALL NOT CAUSE SURFACE WATER DIVERSION WHICH NEGATIVELY IMPACTS ADJACENT PROPERTIES OR WATER BODIES. SPECIFIC FINDINGS ARE REQUIRED TO ALTER THE BUFFER REQUIREMENTS OF KPB 21.29.050(A)(2)(A) IN ORDER TO MINIMIZE NEGATIVE IMPACTS FROM SURFACE WATER DIVERSION. FOR PURPOSES OF THIS SECTION, SURFACE WATER DIVERSION IS DEFINED AS EROSION, FLOODING, DEHYDRATION OR DRAINING, OR CHANNELING. NOT ALL SURFACE WATER DIVERSION RESULTS IN A NEGATIVE IMPACT.

E. AT ITS DISCRETION, THE PLANNING COMMISSION MAY WAIVE BUFFER REQUIREMENTS WHERE THE TOPOGRAPHY OF THE PROPERTY OR THE PLACEMENT OF NATURAL BARRIERS MAKES SCREENING NOT FEASIBLE OR NOT NECESSARY. BUFFER REQUIREMENTS SHALL BE MADE IN CONSIDERATION OF AND IN ACCORDANCE WITH EXISTING USES OF ADJACENT PROPERTY AT THE TIME OF APPROVAL OF THE PERMIT. THERE IS NO REQUIREMENT TO BUFFER THE MATERIAL SITE FROM USES WHICH COMMENCE AFTER THE APPROVAL OF THE PERMIT.]

2. *Buffer Area*.

a. A 2:1 slope shall be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 90 days from the time of removal.

b. The buffer area may be reduced where the planning commission or planning director, as applicable, has approved an alternate buffer plan introduced by the applicant. The alternate buffer plan must consist of natural undisturbed vegetation, or a minimum ten foot berm, or a minimum six-foot fence or a combination thereof, consisting of only one option in a single geographical location; unless the permittee proposes another solution approved by the planning commission or planning director, as applicable, to meet this condition.

c. The buffer requirements may be waived by the planning commission or planning director, as applicable, where the topography of the property or the placement of natural barriers makes screening not feasible or unnecessary.

d. There is no requirement to buffer a material site from uses that commence after approval of the permit.

3. *Processing.* In the case of a CLUP, any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries. At its discretion, the planning commission may waive the 300-foot processing distance requirement, or allow a lesser distance in consideration of and in accordance with existing uses of adjacent properties at the time.

4. *Water source separation.*

a. All permits shall be issued with a condition which prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance.

b. All counter permits shall be issued with a condition which requires that a four-foot vertical separation [FROM THE SEASONAL HIGH WATER TABLE BE MAINTAINED] an excavation distance a maximum of 15 feet below the seasonal high-water table must be maintained under these conditions:

1. No dewatering is allowed.
2. The edge of any water body must be 200 feet from any DEC septic or well.
3. A spill response kit must be maintained onsite.
4. Operations shall stay 2 foot above an aquifer-confining layer.
5. A 200-foot separation from any water body and any stored hazardous material.

[C. ALL CLUPS SHALL BE ISSUED WITH A CONDITION WHICH REQUIRES THAT A TWO-FOOT VERTICAL SEPARATION FROM THE SEASONAL HIGH WATER TABLE BE MAINTAINED.]

c. There shall be no dewatering either by pumping, ditching or some other form of draining unless an exemption is granted by the planning commission. The exemption for dewatering may be granted if the operator provides a statement under seal and supporting data from a duly licensed and qualified impartial civil engineer, that the dewatering will not lower any of the surrounding property's water systems and the contractor posts a bond for liability for potential accrued damages.

5. *Excavation in the water table.* Excavation in the water table greater than [300]200 horizontal feet of a water source and 15 feet below water table may be permitted with the approval of the planning commission based on the following:

   a. Certification by a qualified independent civil engineer or professional hydrogeologist that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources.

   b. The installation of a minimum of three water monitoring tubes or well casings as recommended by a qualified independent civil engineer or professional hydrogeologist adequate to determine flow direction, flow rate, and water elevation.

   c. Groundwater elevation, flow direction, and flow rate for the subject parcel, measured in three-month intervals by a qualified independent civil engineer or professional hydrogeologist, for at least one year prior to application. Monitoring tubes or wells must be kept in place, and measurements taken, for the duration of any excavation in the water table.

   d. Operations shall not breach an aquifer-confining layer.

6. *Waterbodies.*

   a. An undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet [FROM] of excavation limits and the ordinary high water level of surface water bodies such as a lake, river, stream, [OR OTHER WATER BODY, INCLUDING] riparian wetlands [AND MAPPED FLOODPLAINS AS DEFINED IN KPB 21.06]. This regulation shall not apply to ponds less than one acre on private land, man-made waterbodies being constructed during the course of the materials extraction activities. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.

   b. Counter permits and CLUPS may contain additional conditions addressing surface water diversion.

7. *Fuel storage.* Fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for

uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface. Double wall tanks are also acceptable.

8. *Roads.* Operations shall be conducted in a manner so as not to damage borough roads as required by KPB 14.40.175 and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.

9. *Subdivision.* Any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit. The planning director may issue a written exemption from the amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a material site and all original permit conditions can be met.

10. *Dust control.* Dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.

11. *Hours of operation.* [ROCK CRUSHING EQUIPMENT SHALL NOT BE OPERATED BETWEEN 10:00 P.M. AND 6:00 A.M.]

    a. Processing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.

    b. The planning commission may grant exceptions to increase the hours of operation and processing based on surrounding land uses, topography, screening the material site from properties in the vicinity and conditions placed on the permit by the planning commission to mitigate the noise, dust and ~~visual impacts~~ caused by the material site.

12. *Reclamation.*

    a. Reclamation shall be consistent with the reclamation plan approved by the planning commission or planning director as appropriate in accord with KPB 21.29.060.

    b. [AS A CONDITION OF ISSUING THE PERMIT, THE APPLICANT SHALL SUBMIT A RECLAMATION PLAN AND POST A BOND TO COVER THE ANTICIPATED RECLAMATION COSTS IN AN AMOUNT TO BE DETERMINED BY THE PLANNING DIRECTOR. THIS BONDING REQUIREMENT SHALL NOT APPLY TO SAND, GRAVEL OR MATERIAL SITES FOR WHICH AN EXEMPTION FROM STATE BOND REQUIREMENTS FOR SMALL OPERATIONS IS APPLICABLE

PURSUANT TO AS 27.19.050.] The applicant shall operate the material site consistent with the approved reclamation plan and provide bonding pursuant to 21.29.060(B). This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.

13. *Other permits.* Permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC air and water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives. Any violation of these regulations or permits reported to or observed by borough personnel will be forwarded to the appropriate agency for enforcement.

14. [*VOLUNTARY]Volunteered permit conditions.* Conditions may be included in the permit upon agreement of the permittee and approval of the planning commission for CLUPs or the planning director for counter permits. Such conditions must be consistent with the standards set forth in KPB 21.29.040(A). Planning commission approval of such conditions shall be contingent upon a finding that the conditions will be in the best interest of the borough and the surrounding property owners. [VOLUNTARY] Volunteered permit conditions apply to the subject parcel and operation, regardless of a change in ownership. A change in [VOLUNTARY] volunteered permit conditions may be proposed [AT] by permit [RENEWAL OR AMENDMENT] modification.

15. *Signage.* For permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access, whichever is more visible. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.

16. A*ppeal.* No clearing of vegetation shall occur within the 50 ~~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.

17. *Reverse signal alarms*. Reverse signal alarms, used at the material site on loaders, excavators, and other earthmoving equipment may be more technically advanced devices; such as, a multi-frequency "white noise" alarms rather than the common, single (high-pitch) tone alarms. At its discretion, the planning commission or planning director, as applicable, may waive this requirement or a portion of this requirement. The waiver of this requirement shall be made in consideration of and in accordance with existing uses of the properties in the vicinity at the time of approval of the permit.

19. *Dust suppression*. Dust suppression may ~~shall~~ be required when natural precipitation is not adequate to suppress the dust generated by the material site traffic on haul routes within property boundaries. Based on surrounding land uses the planning commission or planning director, as applicable, may waive or reduce the requirement for dust suppression on haul routes within property boundaries.

21. *Surface water protection.* Use of surface water protection measures as specified in KPB 21.29.030(A)(8) must be approved by a licensed civil engineer or SWPPP certified individual.

22. *Setback.* Material site excavation areas shall be 250-feet from the property boundaries of any local option zoning district, existing public school ground, private school ground, college campus, child care facility, multi-purpose senior center, assisted living home, and licensed health care facility. If overlapping, the buffer areas of the excavation shall be included in the 250-foot setback. At the time of application.

21.29.060. Reclamation plan.

A. All material site permit applications require an overall reclamation plan.

B. The applicant may revegetate with a non-invasive plant species and reclaim all disturbed land [UPON EXHAUSTING THE MATERIAL ON-SITE, OR WITHIN A PRE-DETERMINED TIME PERIOD FOR LONG-TERM ACTIVITIES, SO AS TO LEAVE THE LAND IN A STABLE CONDITION. RECLAMATION MUST OCCUR FOR ALL EXHAUSTED AREAS OF THE SITE EXCEEDING FIVE ACRES BEFORE A FIVE-YEAR RENEWAL PERMIT IS ISSUED, UNLESS OTHERWISE REQUIRED BY THE PLANNING COMMISSION. IF THE MATERIAL SITE IS ONE ACRE OR LESS IN SIZE AND HAS BEEN GRANTED A CLUP DUE TO EXCAVATION IN THE WATER TABLE,

RECLAMATION MUST BE PERFORMED AS SPECIFIED BY THE PLANNING COMMISSION OR PLANNING DIRECTOR IN THE CONDITIONAL USE OR COUNTER PERMIT] within the time period approved with the reclamation plan so as to leave the land in a stable condition. Bonding shall be required at $750.00 per acre for all acreage included in the current five-year reclamation plan. In the alternative, the planning director shall accept a civil engineer's estimate for determining the amount of bonding. If the applicant is bonded with the state, the borough's bonding requirement is waived. Compliance with reclamation plans shall be enforced under KPB 21.50.

C. The following measures must be considered in the [PREPARING] preparation, approval and [IMPLEMENTING] implementation of the reclamation plan, although not all will be applicable to every reclamation plan.

1. The area will be backfilled, graded and recontoured using strippings, overburden, and topsoil [TO A CONDITION THAT ALLOWS FOR THE REESTABLISHMENT OF RENEWABLE RESOURCES ON THE SITE WITHIN A REASONABLE PERIOD OF TIME. IT WILL BE STABILIZED TO A CONDITION THAT WILL ALLOW SUFFICIENT MOISTURE FOR REVEGETATION] so that it will be stabilized to a condition that will allow for the revegetation as required by KPB 21.29.060(B).

2. [SUFFICIENT QUANTITIES OF STOCKPILED OR IMPORTED TOPSOIL WILL BE SPREAD OVER THE RECLAIMED AREA TO A DEPTH OF FOUR INCHES TO PROMOTE NATURAL PLANT GROWTH THAT CAN REASONABLY BE EXPECTED TO REVEGETATE THE AREA WITHIN FIVE YEARS. THE APPLICANT MAY USE THE EXISTING NATURAL ORGANIC BLANKET REPRESENTATIVE OF THE PROJECT AREA IF THE SOIL IS FOUND TO HAVE AN ORGANIC CONTENT OF 5% OR MORE AND MEETS THE SPECIFICATION OF CLASS B TOPSOIL REQUIREMENTS AS SET BY ALASKA TEST METHOD (ATM) T-6.] The [MATERIAL] topsoil used for reclamation shall be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by a licensed engineer.

4. Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation shall be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.

5. [PEAT AND T] Topsoil mine operations shall ensure a minimum of [TWO] four inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).

6. Ponding may be used as a reclamation method as approved by the planning commission.

[D. THE PLAN SHALL DESCRIBE THE TOTAL ACREAGE TO BE RECLAIMED EACH YEAR, A LIST OF EQUIPMENT (TYPE AND QUANTITY) TO BE USED IN RECLAMATION, AND A TIME SCHEDULE OF RECLAMATION MEASURES.]

21.29.070. Permit extension and revocation.

A. Conditional land use permittees must submit a request in writing for permit extension every five years after the permit is issued. Requests for permit extension must be made at least 30 days prior to permit expiration. Counter permittees must submit any request for a 12-month extension at least 30 days prior to the expiration of the original 12-month permit period.

B. A permit extension certificate for a CLUP may be granted by the planning director after 5 years, and after one year for a counter permit where no modification to operations or conditions are proposed.

C. Permit extension may be denied if: (1) reclamation required by this chapter and the original permit has not been performed; (2) the permittee is otherwise in noncompliance with the original permit conditions; or (3) the permittee has had a permit violation in the last two years and has not fulfilled compliance requests.

D. A modification application shall be processed pursuant to KPB 21.29.030-050 with public notice given as provided by KPB 21.25.060 when operators request modification of their permit conditions based on changes in operations set forth in the modification application.

E. There shall be no fee for permit extensions approved by the planning director. The fee for a permit modification processed under KPB 21.29.070(D) will be the same as an original permit application in the amount listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees.

F. Failure to submit a request for extension will result in the expiration of the permit. The borough may issue a permit termination document upon expiration pursuant to KPB 21.29.080. Once a permit has expired, a new permit application approval process is required in order to operate the material site.

G. Permits may be revoked pursuant to KPB 21.50.

21.29.080. Permit termination.

When a permit expires, is revoked, or a permittee requests termination of their permit, a review of permit conditions and site inspections will be conducted by the planning department to ensure code compliance and verify site reclamation prior to termination. When the planning director determines that a site qualifies for termination, a termination document shall be issued to the permittee.

21.29.090. Permit modifications.

If a permittee revises or intends to revise operations (at a time other than permit extension) so that they are no longer consistent with the original application, a permit modification is required. The planning director shall determine whether the revision to operations requires a modification. Permit modification shall be processed in the same manner as original permits.

21.29.100. Recordation.

All permits, permit extensions, modified permits, prior existing uses, and terminations shall be recorded. Failure to record a material site document does not affect the validity of the documents.

21.29.110. Violations.

A. Violations of this chapter shall be governed by KPB 21.50.

B. In addition to the remedies provided in KPB 21.50, the planning director may require bonding in a form and amount adequate to protect the borough's interests for an owner or operator who has been cited for three violations of KPB 21.50, 21.25, and 21.29 within a three-year period. The violations need not be committed at the same material site. Failure to provide requested bonding may result in permit revocation proceedings.

21.29.120. Prior existing uses.

A. Material sites are not held to the standards and conditions of a CLUP if a prior existing use (PEU) determination was granted for the parcel in accordance with KPB 21.29.120(B). To qualify as a PEU, a parcel's use as a material site must have commenced or have been operated after May 21, 1986, and prior to May 21, 1996, provided that the subject use continues in the same location. In no event shall a prior existing use be expanded beyond the smaller of the lot, block, or tract lines as they existed on May 21, 1996. If a parcel is further subdivided after May 21, 1996, the pre-existing use may not be expanded to any lot, tract, or parcel where extraction had not occurred before or on February 16, 1999. If a parcel is subdivided where extraction has already occurred, the prior existing use is considered

abandoned, and a CLUP must be obtained for each parcel intended for further material site operations. The parcel owner may overcome this presumption of abandonment by showing that the subdivision is not inconsistent with material site operation. If a parcel subject to a prior existing use is conveyed, the prior existing use survives the conveyance.

B. Owners of sites must have applied to be registered as a prior existing use prior to January 1, 2001.

C. [ANY PRIOR EXISTING USE THAT HAS NOT OPERATED AS A MATERIAL SITE BETWEEN MAY 21, 1996, AND MAY 21, 2011, IS CONSIDERED ABANDONED AND MUST THEREAFTER COMPLY WITH THE PERMIT REQUIREMENTS OF THIS CHAPTER. THE PLANNING DIRECTOR SHALL DETERMINE WHETHER A PRIOR EXISTING USE HAS BEEN ABANDONED. AFTER GIVING NOTICE TO THE PARCEL OWNER THAT A PEU IS CONSIDERED ABANDONED, A PARCEL OWNER MAY PROTEST THE TERMINATION OF THE PEU BY FILING WRITTEN NOTICE WITH THE PLANNING DIRECTOR ON A FORM PROVIDED BY THE PLANNING DEPARTMENT. WHEN A PROTEST BY A PARCEL OWNER IS FILED, NOTICE AND AN OPPORTUNITY TO MAKE WRITTEN COMMENTS REGARDING PRIOR EXISTING USE STATUS SHALL BE ISSUED TO OWNERS OF PROPERTY WITHIN A ONE-HALF MILE RADIUS OF THE PARCEL BOUNDARIES OF THE SITE. THE OWNER OF THE PARCEL SUBJECT TO THE PRIOR EXISTING USE MAY SUBMIT WRITTEN INFORMATION, AND THE PLANNING DIRECTOR MAY GATHER AND CONSIDER ANY INFORMATION RELEVANT TO WHETHER A MATERIAL SITE HAS OPERATED. THE PLANNING DIRECTOR MAY CONDUCT A HEARING IF HE OR SHE BELIEVES IT WOULD ASSIST THE DECISION-MAKING PROCESS. THE PLANNING DIRECTOR SHALL ISSUE A WRITTEN DETERMINATION WHICH SHALL BE DISTRIBUTED TO ALL PERSONS MAKING WRITTEN COMMENTS. THE PLANNING DIRECTOR'S DECISION REGARDING TERMINATION OF THE PRIOR EXISTING USE STATUS MAY BE APPEALED TO THE PLANNING COMMISSION WITHIN 15 DAYS OF THE DATE OF THE NOTICE OF DECISION.]

The owner of a material site that has been granted a PEU determination shall provide proof of compliance with AS 27.19.030 – 050 concerning reclamation to the planning department no later than ~~July 1, 2021~~. The proof shall consist of an Alaska Department of Natural Resources (DNR) approved reclamation plan and receipt for bonding or a letter of intent filed with DNR.

1. The planning department may request proof of continued compliance with AS 27.19.030 – 050 on an annual basis.

2. Pursuant to KPB 21.29.110 the enforcement process and remedies set forth in KPB 21.50 shall govern if the proof that the statutory requirements contained in AS 27.19.030-050 is not provided to the planning department.

SECTION 3. That KPB 21.50.055 is hereby amended, 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 20.10.030(A)	Offering land for sale without final plat approval	$300.00
KPB 20.10.030(B)	Filing/recording unapproved subdivision/plat	$300.00
KPB 20.10.030(C)	Violation of subdivision code or condition	$300.00
KPB 21.05.040(C)	Violation of variance conditions	$300.00
KPB 21.06.030(D)	Structure or activity prohibited by KPB 21.06	$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/Violation of SMFDA permit conditions/Floodplain Management	$300.00
KPB 21.06.050	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

CODE CHAPTER & SECTION	VIOLATION DESCRIPTION	DAILY FINE
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 Also applies to KPB 21.26 material site permits	$300.00
KPB 21.29.060	Violation of Reclamation Plan/Material Site Permits Also applies to KPB 21.26 material site permits	$300.00
KPB 21.29.120	Failure to Provide Reclamation Plan and Proof of Bonding or Letter of Intent	$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 Option Zoning	$300.00

CODE CHAPTER & SECTION	VIOLATION DESCRIPTION	DAILY FINE
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

CODE CHAPTER & SECTION	VIOLATION DESCRIPTION	DAILY FINE
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	$1,000.00
KPB 21.50.130(I)	Violation of an enforcement order	$1,000.00

SECTION 4. That this ordinance shall become effective upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2022.

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

02/01/22 Vote on motion to table:

Yes: Bjorkman, Chesley, Cox, Derkevorkian, Ecklund, Elam, Hibbert, Tupper, Johnson

No: None

Absent: None

Introduced by: Johnson, Cox
Date: 12/13/22
Action:
Vote:

KENAI PENINSULA BOROUGH
RESOLUTION 2022-059

A RESOLUTION ACCEPTING THE RESIGNATION OF ASSEMBLY MEMBER JESSE BJORKMAN AND DECLARING A VACANCY ON THE ASSEMBLY

WHEREAS, Jesse Bjorkman was initially elected to serve as an assembly member from Assembly District 3, Nikiski, on October 1, 2019; and

WHEREAS, after serving his first term in office, Mr. Bjorkman was re-elected to serve as the assembly member from Assembly District 3, Nikiski, on October 4, 2022; and

WHEREAS, on November 8, 2022, Mr. Bjorkman was elected to serve in the Alaska Senate representing Senate District D; and

WHEREAS, the State of Alaska certified the election results on November 30, 2022; and

WHEREAS, Assemblyman Jesse Bjorkman has submitted his resignation from the Kenai Peninsula Borough Assembly effective January 16, 2023 at 11:59 p.m., thus creating a vacancy for District 3; and

WHEREAS, if the resignation is accepted and a vacancy is declared as set out herein, the assembly's meeting on January 3, 2023, will be Mr. Bjorkman's last meeting as a member of this assembly; and

WHEREAS, the prospective effective date will allow the Borough Clerk's Office to advertise the notice of vacancy, followed by a 15-day application period, with the intent being that the assembly will appoint a new representative for Assembly District 3 in a manner that ensures there is no gap in representation for Assembly District 3;

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

SECTION 1. That the Assembly extends congratulations and best wishes to State Senator-elect Jesse Bjorkman in his new endeavor.

SECTION 2. That the resignation of Jesse Bjorkman is hereby accepted, effective January 16, 2023 at 11:59 p.m.

SECTION 3. That pursuant to KPB 22.30.060(C), all applicants for appointment must file with the Borough Clerk a declaration of candidacy. The filing period will open at 8:00 a.m. on December 14, 2022 and end at 4:30 p.m. on January 10, 2023. Applicants must be a registered voter and resident within Assembly District 3.

SECTION 4. That the Borough Clerk is directed to advertise the vacancy created in Assembly District 3 and forward copies of all declarations of candidacy received to the Assembly President and members of the Assembly for consideration and appointment at the January 17, 2023 Assembly meeting.

SECTION 5. That this resolution is effective immediately upon adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 13TH DAY OF DECEMBER, 2022.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Members, Kenai Peninsula Borough Assembly

FROM: Brent Johnson, Assembly President BJ
Tyson Cox, Assembly Vice President TRC

DATE: December 1, 2022

SUBJECT: Resolution 2022-059, Accepting the Resignation of Assembly Member Jesse Bjorkman and Declaring a Vacancy on the Assembly (Johnson, Cox)

On November 30, 2022, the State of Alaska certified the results of the 2022 general election that was held on November 8, 2022. Due to Assemblyman Jesse Bjorkman being elected to serve in the Alaska State Senate, he has submitted his resignation from the Kenai Peninsula Borough Assembly. Jesse was initially elected to serve as an assembly member from Assembly District 3, Nikiski, on October 1, 2019 and, on October 4, 2022, he was re-elected to serve a second term on the Assembly.

Jesse's resignation is effective January 16, 2023 at 11:59 p.m. The Assembly's January 3, 2022 meeting will be Jesse's last meeting on the Assembly. The prospective effective date will allow the Borough Clerk's Office to advertise the notice of vacancy, followed by a 15-day application period for declarations of candidacy to be `filed. Subsequently, the assembly will appoint a new representative for Assembly District 3 in a manner that ensures there is no gap in representation for Assembly District 3.

Under this proposed timeline, the first meeting on the Assembly for the appointed representative for Assembly District 3 will be January 17, 2022. The appointee will serve as the representative for Assembly District 3 until the Borough's October 2023 regular election.

We want to congratulate Jesse on his successful campaign and extend our best wishes to him as he continues his work representing residents of the Northern Kenai Peninsula, in service to all of Alaska, as Senator-elect for Senate District D.

Your consideration is appreciated.

State Senator-Elect
Jesse J Bjorkman
PO Box 8293
Nikiski, AK 99635

December 6, 2022

Assembly President
Brent Johnson
144 N Binkley
Soldotna, AK 9966

President Johnson,

It truly has been my honor to represent the people of Nikiski on the Kenai Peninsula Borough Assembly. I am thankful to have worked with you, other assembly members, and our amazing Borough staff as we push toward a more prosperous future for Kenai Peninsula residents.

I am proud that as an Assembly we stand for common sense. We have improved public safety by hiring more firefighters and paramedics, advocated for wildland fire safety, prioritized our senior centers, appropriately funded our schools, improved election security, supported the 2nd Amendment rights of Alaskans, advocated for investigative grand juries, and worked to ensure that our Assembly oversees local government that is responsive and trustworthy.

Now a new chapter is unfolding. The people of Senate District D have chosen me as their State Senator. In order to fully commit to what that position requires, I must resign my seat on the Kenai Peninsula Borough Assembly. My resignation from the Borough Assembly is effective January 16, 2023 at 11:59 p.m. I hope that whoever replaces me will be a trusted and respected member of our community. Our new member should be dedicated to honoring the history of our area, while looking for opportunities to promote economic growth in both resource production and recreation.

I look forward to continuing to work with you all from my new role in the State Senate. Please have a Merry Christmas and an excellent New Year filled with taking courageous action toward a prosperous future.

Sincerely,
State Senator-Elect
Jesse J Bjorkman

Introduced by: Johnson
Date: 12/13/22
Action:
Vote:

KENAI PENINSULA BOROUGH
RESOLUTION 2022-060

A RESOLUTION DECLARING A LOCAL ECONOMIC DISASTER FOR 2021 AND 2022 AND REQUESTING THE GOVERNOR OF THE STATE OF ALASKA DECLARE AN ECONOMIC DISASTER FOR 2021 AND 2022 FOR THE UPPER COOK INLET EAST SIDE SET NET FISHERY AND SUPPORTING A RECOVERY PLAN

WHEREAS, in the past two years restrictions imposed on the Upper Cook Inlet ("UCI") East Side Set Net ("ESSN") fishery have meant less fishing time was allowed than was stipulated in the sockeye salmon management plans; and

WHEREAS, in 2021 the total run of sockeye salmon to UCI was approximately 5.7 million fish; and

WHEREAS, in 2021 the total ESSN fishery sockeye salmon harvest was 407,007 fish, the total harvest was 56% less than the previous 10-year average (excluding 2012) for the Kasilof section and 47% less for the Kenai and East Foreland Sections, according an April 2022 report published by the Alaska Department of Fish and Game ("ADF&G"), Division of Commercial Fisheries; and

WHEREAS, the average ESSN harvest for the 10-year period from 2012-2021 is compared to the 2022 harvest in the following table:

Specie	**2012 – 2021**	**2022**
Chinook	3,202	341
Sockeye	683,082	104,678
Coho	8,665	28
Pink	64,589	317
Chum	544	8

; and

WHEREAS, the Upper Cook Inlet ESSN fishery estimated 2021 gross exvessel was $3,421,857, approximately 63% less than the 5-year average of $9,063,869, resulting in a $5,642,012 loss to fishery; and

WHEREAS, the Upper Cook Inlet ESSN fishery estimated 2022 gross exvessel was $958,284 approximately 90% less than the 5-year average of $9,063,869 resulting in a $8,105,584 loss to the fishery; and

WHEREAS, the Upper Cook Inlet ESSN is a unique Alaska fishery, 86% of the participants are Alaskan residents 80% of which are Kenai Peninsula Borough residents; and

WHEREAS, applying a 6x multiplier effect, the losses to the Kenai Peninsula Borough economy where 80% of ESSN participants are Borough residents could potentially be in the range of $65 million; and

WHEREAS, AS 44.33.285 authorizes the governor, upon recommendation of the commissioner of commerce, community, and economic development, to designate by proclamation an area impacted by an economic disaster; and

WHEREAS, AS 44.33.310(3) provides that an economic disaster occurs where the annual income to workers in the designated area dropped below the average annual income for the base period, which is, for a fisheries failure, the years during which a fishery produced at economically representative levels as determined by the Department of Fish and Game; and

WHEREAS, the extremely low harvest and low exvessel values are below the level necessary to cover the cost of operating and maintaining commercial set net, processing and marketing businesses in the Kenai Peninsula Borough; and

WHEREAS, the Kenai Peninsula Borough is a political subdivision of the State of Alaska; and

WHEREAS, an economic disaster declaration by the Governor would allow the legislature to appropriate funds for assistance grants and the governor may recommend in the governor's budget that capital projects planned for the area be accelerated and other steps may be taken as provided in AS 44.33.285 - .310 to accelerate the recovery from this disaster; and

WHEREAS, the Kenai Peninsula Fishermen's Association has urged the Kenai Peninsula Borough to ask the Governor of the State of Alaska to declare an economic disaster for the Upper Cook Inlet ESSN salmon commercial fisheries for 2021 and 2022 due to the failure of the 2021 and 2022 season;

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

SECTION 1. That the Kenai Peninsula Borough Assembly declares an economic disaster to exist in the areas of the Kenai Peninsula Borough affected by the 2021 and 2022 Upper Cook Inlet ESSN Fishery.

SECTION 2. That the Kenai Peninsula Borough Assembly respectfully requests that the Governor of the State of Alaska declare an economic disaster, as described in AS 44.33.285, to exist in the Upper Cook Inlet ESSN Fishery and that the State of Alaska implement a recovery plan that provides private assistance and takes other actions that benefit commercial fisheries participants and others that rely on this important fishery resource.

SECTION 3. The assembly also respectfully requests that the State of Alaska urge the Federal Department of Commerce and all other applicable federal agencies to render private and public assistance to all affected persons and entities.

SECTION 4. That a copy of this resolution shall be provided to Governor Michael Dunleavey, State Senator-elect Jesse Bjorkman, State Representative-elect Justin Ruffridge, and Representative-elect Sarah Vance.

SECTION 5. That this resolution becomes effective immediately upon adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 13TH DAY OF DECEMBER 2022.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Members, Kenai Peninsula Borough Assembly

FROM: Brent Johnson, Assembly President BJ

DATE: December 1, 2022

SUBJECT: Resolution 2022-060, Declaring a Local Economic Disaster For 2021 and 2022 and Requesting the Governor of the State of Alaska Declare an Economic Disaster for 2021 and 2022 For The Upper Cook Inlet East Side Set Net Fishery And Supporting A Recovery Plan (Johnson)

The Upper Cook Inlet East Side Set Net (ESSN) fishery is an important and uniquely Alaskan fishery. Approximately 80% of permit holders are residents of the Kenai Peninsula Borough. In recent years the ESSN fishery has experienced devasting restrictions and severe losses. Alaska Department of Fish & Game's Board of Fish regulations pertaining to King Salmon management has led to eastside setnetters bearing the brunt of the conservation burden. As an example of this, the Kenai Section of the ESSN fishery fished only twice in 2022.

This resolution requests that Governor Dunleavy issue an economic disaster declaration for the ESSN fishery.

Your consideration is appreciated.

Alaska State Legislature

Kenai Peninsula Delegation

Senator Peter Micciche
District O
907-465-2828
Sen.Peter.Micciche@akleg.gov

Senator Gary Stevens
District P
907-465-4925
Sen.Gary.Stevens@akleg.gov

Representative Ben Carpenter
District 29
907-465-3779
Rep.Ben.Carpenter@akleg.gov

Representative Sarah Vance
District 31
907-465-2689
Rep.Sarah.Vance@akleg.gov

December 8, 2022

Mike Navarre
KPB Mayor
144 N Binkley St
Soldotna, AK 99669

VIA ELECTRONIC MAIL

Mayor Navarre:

We write today to respectfully ask that you support a resolution requesting that Governor Dunleavy declare a disaster in the Cook Inlet East Side Set Net (ESSN) fishery for the 2021 and 2022 seasons.

The ESSN fishery has been affected by low returns and therefore, limited opportunities to fish. Combined, these have resulted in dramatic financial losses in the fishery.

As the seated and newly elected legislators on the Kenai Peninsula, we represent most of the ESSN permit holders, their families and crewmembers, and are aware of the diminishing chinook salmon returns that effect regulation resulting in greatly reduced fishing opportunity for the targeted sockeye salmon harvest and the corresponding financial impacts to area fishermen. After your own analysis of the ex-vessel values, we are confident you will agree with our assessment of the disastrous Cook Inlet ESSN fishery situation.

The numbers truly speak for themselves:
In 2021, the ESSN gross ex-vessel value was $3,421,851. When divided into a 5-year average of $9,063,869, results in a 63% loss or $5,642,012.

In 2022, the ESSN gross ex-vessel value was $958,284. When also divided into $9,063,869, it results in a 90% loss or $8,105,584.

The total loss for both years was $13,747,597 or based on 440 ESSN permits $31,244.54 each. A loss of this magnitude is a disaster for all concerned in this small fishery. These impacts not only affect permit holders but also the crew members of the fish sites, the processors and other support businesses. Ultimately, the losses incurred during the 2021 and 2022 fishing seasons could mean nearly a $100,000,000 financial impact to the Kenai Peninsula.

The 5-year average was determined by using ex-vessel values from 2014, 2015, 2016, 2017 and 2019. 2018 and 2020 were not used in the determination as they were previously declared disasters. Current NOAA policy states that if a fishery has suffered a 70% loss, then a disaster has occurred.

2022 was obviously a disaster. 2021, on its face, doesn't meet the 70% threshold. However, NOAA advises that the fisheries apply, and they may grant disaster status due to "extenuating circumstances".

In closing let us again encourage your consideration of a resolution requesting Governor Dunleavy declare a disaster for this 140-year-old fishery. The residents who work tirelessly in this fishery continue to struggle financially, even on good years. The impacts felt by all during the 2021 and 2022 seasons are more that many can bear.

Thank you for your consideration of this request. Please contact Senator Micciche's office at 907-283-7996 if you have any questions.

Sincerely,

Senate President Peter Micciche

Senator Gary Stevens

Representative Ben Carpenter

Representative Sarah Vance

Senator-Elect Jesse Bjorkman

Representative-Elect Justin Ruffridge

Introduced by:	Mayor
Date:	12/13/22
Hearing:	01/03/23
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-19-34

AN ORDINANCE APPROVING THE SECOND AMENDMENT TO THE SPENDING PLAN FOR THE COVID-19 COMMUNITY FUNDING PROGRAM TO PURCHASE PORTABLE TRAINING TABLES, CHAIRS, RESPONSE EQUIPMENT, RESPONSE TRAINING AND ELECTRONIC SIGNAGE TO SUPPORT FUTURE EMERGENCY RESPONSE OBJECTIVES AND APPROPRIATING SERVICE AREA FUNDS TO SUPPORT LOCAL PORTION OF SIGNAGE

WHEREAS, the Alaska State Legislature has provided funding to the Kenai Peninsula Borough ("Borough") through the COVID-19 Community Funding Program, a federal pass-thru program under the Center for Disease Control and Prevention; and

WHEREAS, Resolution 2021-070 approved the first amendment to the spending plan for the COVID-19 Community Funding Program to purchase personal protection equipment, supplement funding to Central Peninsula Hospital and South Peninsula Hospital for Prevention and Treatment of COVID-19, and to harden North Peninsula and Seldovia Recreation facilities to ensure future use in case of an emergency; and

WHEREAS, the second revision to the spending plan will utilize $309,856.22 to purchase portable training tables and chairs, response equipment for the mobile command vehicle, incident management training and supplement the cost to install electronic signage at Borough facilities; and

WHEREAS, this amendment to the spending plan will authorize moving money among COVID-19 Community Funding Program projects to meet possible cost overruns, upon prior approval of the mayor, not to exceed ten percent of the individual project budget; and

WHEREAS, the current lapsed funds from all completed projects will be assigned to the electronic signage projects to reimburse each service area's local fund contributions; and

WHEREAS, it is in the Borough's best interest to approve the amended spending plan for the purpose of addressing the impacts of the coronavirus pandemic; and

WHEREAS, each fire service area will appropriate service area funds to support the remaining portion of each respective sign project; and

WHEREAS, at its regular meeting of _____ the Nikiski Fire Service Area Board recommended _____; and

WHEREAS, at its regular meeting of November 17, 2023 the Central Emergency Service Area Board recommended unanimous to appropriate $40,000; and

WHEREAS, at its regular meeting of November 17, 2023 the Kachemak Emergency Service Area Board recommended unanimous to appropriate $10,000;

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

SECTION 1. That the assembly hereby approves the portion of the COVID-19 Community Funding Program funds - Amended January 13, 2023, $309,856.22, to purchase portable training tables, response equipment for the mobile command vehicle and electronic signage to ensure future use in case of an emergency event.

SECTION 2. That the assembly hereby approves the portion of the COVID-19 Community Funding Program funds - Amended January 13, 2023, to authorize moving money among existing COVID-19 Community Funding Program projects to meet possible cost overruns which are subject to prior approval by the mayor, and shall not exceed ten percent of the individual project budget.

SECTION 3. That $_____ is appropriated from the Nikiski Fire Service Area Operating Fund to be transferred to account 441.51110.21VAC.49999 for the signage project.

SECTION 4. That $40,000 is appropriated from the Central Emergency Service Area Operating Fund to be transferred to account 443.51610.21VAC.49999 for the signage project.

SECTION 6. That $10,000 is appropriated from the Kachemak Emergency Service Area Operating Fund to be transferred to account 446.51810.21VAC.49999 for the signage project.

SECTION 7. That appropriations made in this ordinance are project length in nature and as such do not lapse at the end of any particular fiscal year.

SECTION 8. That this ordinance shall become effective immediately upon enactment.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2023.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

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Kenai Peninsula Borough
Office of Emergency Management

MEMORANDUM

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

THRU: Mike Navarre, Mayor MN
Brandi Harbaugh, Finance Director BH

FROM: Brenda Ahlberg, Emergency Manager BA

DATE: December 1, 2022

RE: Ordinance 2022-19-34, Approving the Second Amendment to the Spending Plan for the COVID-19 Community Funding Program to Purchase Portable Training Tables, Chairs, Response Equipment, Response Training and Electronic Signage to Support Future Emergency Response Objectives and Appropriating Service Area Funds to Support Local Portion of Signage (Mayor)

The Ordinance, upon enactment, will authorize the actions outlined below in the COVID-19 Community Funding Program Scope of Work Revision #2, which has been approved by the Alaska Department of Health and Social Services (AK DHSS), including: (1) $309,856.22 to purchase portable training tables and chairs, provide incident management training, purchase response equipment for the mobile command vehicle and supplement electronic signage installs at borough facilities; (2) to move money among COVID-19 Community Funding Program approved projects to meet possible cost overruns, not to exceed 10% of the individual project budget, upon prior approval by the Mayor; and (3) assign lapsed funds from all completed projects to the electronic signage projects, reimbursing each service area's local fund contributions.

The Ordinance also appropriates service area funds to support the local portion of each respective sign project. Board recommendations will be provided at the January assembly meeting. Projects must be completed by June 30, 2023. The Nikiski Fire Service Area recommendation and amount will be provided at the scheduled public hearing.

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Project	Grant Funds
Incident Management Training	$ 20,900.00
Portable training tables and chairs	$ 20,456.22
Mobile command vehicle response equipment	$ 16,500.00
Electronic signage ($63,000 each facility)	$252,000.00
	$309,856.22

Service Area	Account	Local Funds
Central Emergency Services	211.27910	$40,000
Kachemak Emergency Services	212.27910	$10,000
Nikiski Fire Service Area	206.27910	Provide at public hearing
Western Emergency Service Area	209.27910	No allocation

Brenda Ahlberg, Emergency Manager, is the project manager for this grant award; performance period ending June 30, 2023.

Your consideration is appreciated.

FINANCE DEPARTMENT
MATCH ACCOUNT/FUNDS VERIFIED

Acct. No. NFSA 206.27910	Amt: $
Acct. No. CES 211.27910	Amt: $ 40,000
Acct. No. KESA 212.27910	Amt: $ 10,000
Acct. No. 271.11250.21VAC.49999	Amt: $ 90,390.87
Acct. No. 271.61110.21VAC.49999	Amt: $182,139.13
Acct. No. 271.61210.21VAC.49999	Amt: $ 36,226.59
Acct. No. 271.81110.21VAC.49999	AMT: $ 1,099.63

By: CJ Date: 12/1/2022

AK DHSS DIVISION OF PUBLIC HEALTH: COVID-19 COMMUNITY FUNDING PROGRAM - 21VAC (12.13.2022 Memo)
Snapshot Budget

Status	Fund	Account	Project	Object	Project Description	Revised Budget	Actuals	Encumbered or Remaining	Notes
As needed	271	11250	21VAC	49999	Contingency	$ 44,000.00		$ 44,000.00	
Completed	271	11250	21VAC	40***	One PTE position: Program Manager	$ 33,278.53	$ 33,278.53	$ -	
Completed	271	11250	21VAC	43260	Training	$ 929.00	$ 929.00	$ -	
As needed	271	11250	21AVC	43310	Advertising for RFP	$ 4,259.84	$ 4,259.84	$ -	
In progress	271	11250	21VAC	43011	Contractuals	$ 260,493.74	$ 200,695.74	$ 59,798.00	
Proposed	**271**	**11250**	**21VAC**	**43011**	**Portable Tables & Chairs**	**$ 18,596.56**	**$ -**	**$ 18,596.56**	
Proposed	**271**	**11250**	**21VAC**	**43011**	**Incident Management Training**	**$ 19,000.00**			
Proposed	**271**	**11250**	**21VAC**	**48*****	**Mobile Command Equipment**	**$ 15,000.00**		**$ 15,000.00**	

Status	Fund	Account	Project	Object	Project Description	Revised Budget	Actuals	Encumbered or Remaining	Notes
Completed	271	51***	21VAC	42***	Protective Equipment FF/EMS Support	$ 86,153.00	$ 86,153.00	$ -	

Status	Fund	Account	Project	Object	Project Description	Revised Budget	Actuals	Encumbered or Remaining	Notes
Subrecipient Agreements to KPB Service Areas									
Completed 10/31/22	271	81210	21VAC	43011	South Peninsula Hospital (SPH)	$ 350,000.00	$ 350,000.00	$ -	
Completed 2/28/22	271	81110	21VAC	43011	Central Peninsula Hospital (CPH)	$ 348,900.37	$ 348,900.37	$ -	
In progress	271	61110	21VAC	4****	North Peninsula Recreation (NPRSA)	$480,443.83	$159,610.74	$ 320,833.09	Trail Lights and Court Resurface Projects
In progress	271	61210	21VAC	43011	Seldovia Recreation (SRSA)	$ 124,474.72	$ 84,208.68	$ 40,266.04	
Proposed	**271**	**51610**	**21VAC**	**43011**	**Electronic Signage (CES)**	**$ 63,000.00**		**$ 63,000.00**	
Proposed	**271**	**51110**	**21VAC**	**43011**	**Electronic Signage (NFSA)**	**$ 63,000.00**		**$ 63,000.00**	
Proposed	**271**	**51810**	**21VAC**	**43011**	**Electronic Signage (KESA)**	**$ 63,000.00**		**$ 63,000.00**	
Proposed	**271**	**51410**	**21VAC**	**43011**	**Electronic Signage (WESA)**	**$ 63,000.00**		**$ 63,000.00**	
						Revised Budget	**Actuals**	**Remaining**	
						$ 2,037,529.59	$ 1,268,035.90	$ 769,493.69	

***Authorization to move money among 21VAC projects to meet possible cost overruns, not to exceed $203,752.96 or 10% of total grant award. Overruns subject to prior approval by the mayor per borough procurement code.**

$ 2,037,529.59	$ 203,752.96	$	2,037,529.59
$ 2,037,529.59			
$ -			

Introduced by:	Mayor
Date:	09/07/21
Action:	Adopted
Vote:	7 Yes, 1 No, 1 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2021-070

A RESOLUTION AMENDING THE SPENDING PLAN FOR THE COVID-19 COMMUNITY FUNDING PROGRAM TO PURCHASE PERSONAL PROTECTION EQUIPMENT, SUPPLEMENT FUNDING TO CENTRAL PENINSULA HOSPITAL AND SOUTH PENINSULA HOSPITAL FOR PREVENTION AND TREATMENT OF COVID-19, AND HARDEN NORTH PENINSULA AND SELDOVIA RECREATION FACILITIES TO ENSURE FUTURE USE IN CASE OF AN EMERGENCY

WHEREAS, the Alaska State Legislature has provided funding to the Kenai Peninsula Borough through the COVID-19 Community Funding Program, a federal pass-thru program under the Center for Disease Control and Prevention; and

WHEREAS, Ordinance 2020-19-25 approved and appropriated the COVID-19 Community Funding Program funds; and

WHEREAS, the revised spending plan will utilize $735,418.25 to purchase personal protection equipment, supplement funding to Central Peninsula Hospital and South Peninsula Hospital for prevention and treatment of COVID-19, and harden North Peninsula Recreation Facility and Seldovia Recreation Facility to ensure future use in case of an emergency event; and

WHEREAS, this amendment to the spending plan will authorize moving money among COVID-19 Community Funding Program projects to meet possible cost overruns, upon prior approval of the mayor, not to exceed 10% of the individual project budget; and

WHEREAS, it is in the borough's best interest to approve the amended spending plan for the purpose of addressing the impacts of the coronavirus pandemic;

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

SECTION 1. That the assembly hereby approves the portion of the COVID-19 Community Funding Program funds - Amended September 7, 2021, $735,418.25, to purchase personal protection equipment, supplement funding to Central Peninsula Hospital and South Peninsula Hospital for the prevention and treatment of COVID-19, and harden North Peninsula Recreation Facility and Seldovia Recreation Facility to ensure future use in case of an emergency event.

SECTION 2. That the assembly hereby approves the portion of the COVID-19 Community Funding Program funds - Amended September 7, 2021, to authorize moving money among COVID-19 Community Funding Program projects to meet possible cost overruns which are subject to prior approval by the mayor, and shall not exceed 10% of the individual project budget.

SECTION 3. That this resolution shall become effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF SEPTEMBER, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Chesley, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	Cox
Absent:	Carpenter

Introduced by:	Mayor
Date:	12/13/22
Hearing:	01/03/23
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-19-35

AN ORDINANCE ACCEPTING AND APPROPRIATING FUNDING FROM THE STATE OF ALASKA IN THE AMOUNT OF $426,303 FOR FISCAL YEAR 2023, ALLOCATING A ONE-TIME BONUS AMOUNT BASED ON A PER CAPITA CALCULATION IN THE AMOUNT OF $308,883.91, AND APPROVING PROJECTS TO BE COMPLETED FOR COMMUNITY PURPOSES UNDER THE STATE'S 2022/2023 COMMUNITY ASSISTANCE PROGRAMS

WHEREAS, the Alaska State Legislature has provided funding to municipalities and unincorporated communities through the Community Assistance Program ("Program"); and

WHEREAS, AS 29.60.865 requires the assembly of a borough or unified municipality to adopt a resolution identifying those unincorporated communities located within their municipal boundaries that the assembly determines meet the Program eligibility criteria established under AS 29.60.865; and

WHEREAS, Resolution 2022-017 certified that 26 unincorporated communities within the Borough are eligible for participation in the state's Program; and

WHEREAS, the Alaska Department of Commerce, Community and Economic Development provided notification of funds in the amount of $410,514 for the 26 unincorporated communities; and

WHEREAS, pursuant to Resolution 2013-022, an administrative fee of two percent of the grant amount will be charged against the grant to cover general administrative costs; and

WHEREAS, the $410,514, less the administrative fee, is to be distributed evenly among the 26 unincorporated communities within the Borough, or may be expended by the Borough on behalf of the communities; and

WHEREAS, the Program allows funds to be used for any public purpose at the discretion of the local governing body and as allowed by state statutes and borough code; and

WHEREAS, 24 of the 26 communities have issued notice and held local public meetings to determine how the funds should be spent within the community, the two communities that have not yet held meetings are: Nanwalek and Clam Gulch; and

WHEREAS, the Borough will confirm all eligible entities to receive CAP funds; and

WHEREAS, the Alaska Department of Commerce, Community and Economic Development provided notification of funds in the amount of $308,883.91 as a bonus amount for this fiscal year; and

WHEREAS, these funds were delivered to the Borough based on a per-capita calculation for the unincorporated communities; and

WHEREAS, these funds were delivered to the Borough based on a per-capita allocation, and are therefore allocated to the 26 unincorporated communities within the Borough based on a per-capita calculation; and

WHEREAS, it is in the best interests of the Borough to approve the amounts allocated for fiscal year 2023 non-profit or tribal entities, projects and award amounts as authorized in Resolution 2022-017 to ensure that the fiscal year 2023 Program funds are used for public purpose;

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

SECTION 1. That the mayor is authorized to accept $719,397.91 from the State of Alaska for distribution to eligible communities or for expenditure by the Borough on the community's behalf.

SECTION 2. That the mayor is authorized to execute any documents deemed necessary to accept and expend the Community Assistance Program funds and to fulfill the intents and purposes of this ordinance.

SECTION 3. That state funds in the amount of $719,397.91 are appropriated to account 271.94910.23CAP.49999 for fiscal year 2023.

SECTION 4. That the mayor will return CAP funds to the State of Alaska for the communities of Clam Gulch or Nanwalek before June 30, 2023 if no qualified entity assumes the fiduciary role on behalf of these communities. Bonus amounts issued by the State will be re-distributed to agencies based on the per-capita calculations.

SECTION 5. That the mayor is authorized to enter into grant agreements and any other documents necessary with tribal or nonprofit organizations on behalf of the qualified unincorporated communities for public projects that benefit the community as identified in the following chart for fiscal year 2023:

FY2022/2023 Community Assistance Program - Recipients and Projects				
Community	**Recipient**	**Project**	**CAP Amount**	**Bonus Amount**
Anchor Point	Snowmads, Inc.	Leveling of parking lot at North Fork Hills Trail	$2,210.46	$2,707.32
	VFW Post 10221	Community Food Baskets	$2,210.46	$2,707.32
	Anchor Point Chamber	Youth and Family Services-Christmas	$2,210.46	$2,707.32
	Anchor Kings Wrestling Club?	Youth Wrestling Program Scholarships	$2,210.46	$2,707.32
	Anchor Point Community Library	Operating expenses	$2,210.46	$2,707.32
	Anchor Point Senior Center	Holiday food program	$2,210.46	$2,707.32
	Anchor Point Food Pantry	Food and operating costs for food program	$2,210.46	$2,707.32
Bear Creek	Bear Creek Volunteer Fire and Emergency Services	Stabilization Equipment and Ram for new apparatus	$15,473.22	$19,167.28
Cohoe	Boys and Girls Club of the Kenai Peninsula	Youth Programming	$15,473.22	$13,243.34
Cooper Landing	Cooper Landing Community Club	Supports local community programs and provides visitors guide.	$15,473.22	$3,097.02
Clam Gulch			$15,473.22	$1,863.61
Crown Point	Moose Pass Volunteer Fire Company	Operational Costs, Medical Supplies	$15,473.22	$1,071.35

Diamond Ridge	Kachemak Ski Club	Watermelon Parking lot improvements	$2,578.87	$1,995.65
	Homer Trails Alliance	Trail projects	$2,578.87	$1,995.65
	Kachemak Nordic Ski Club	Diamond Ridge Nordic Ski Trail Maintenance	$2,578.87	$1,995.65
	Snowmads, Inc.	Watermelon Parking lot improvements	$2,578.87	$1,995.65
	Kachemak Emergency Services Member Association	Search and Rescue Package	$2,578.87	$1,995.65
	Homer Cycling Club	Diamond Creek Mt. Bike Trail Improvements	$2,578.87	$1,995.65
Fritz Creek	Snowmads, Inc.	Trail Grooming	$3,868.30	$5,059.66
	Kachemak Nordic Ski Club	McNeil Ski Trail Maintenance	$3,868.30	$5,059.66
	Kachemak Emergency Services Member Association	Search and Rescue Package	$3,868.32	$5,059.66
	McNeil Canyon Elementary School Community Council, Inc	McNeil Canyon Trail Enhancement	$3,868.30	$5,059.66
Funny River	Funny River Community Association	Operations	$15,473.22	$9,930.26
Hope	Hope Inc.	Hope Sunrise Community Projects	$15,473.22	$1,449.48
Kachemak Selo	The Village of Kachemak Selo	Village street lights, and road repairs	$15,473.22	$2,052.67
Kalifornsky Beach	Peninsula Spay/Neuter Fund	Spay Neuter funds for owners in k-beach	$3,868.31	$19,102.01

	Kenai Peninsula Food Bank	Food	$3,868.30	$19,102.01
	Love Inc	Family Hope school supplies, day center/warming center supplies	$3,868.31	$19,102.01
	Tsalteshi Trails	Trails Management	$3,868.30	$19,102.01
Kasilof	Kasilof Cohoe Cemetery Association	Spruce Grove Cemetery Management	$7,736.61	$2,363.27
	Kasilof Regional Historical Association	Museum Operations	$7,736.61	$2,363.27
Lowell Point	Lowell Point Community Council	Operations and Fire Department Support	$15,473.22	$711.23
Moose Pass	Moose Pass Chamber of Commerce	Community support programs, economic growth activities	$15,473.22	$2,052.67
Nanwalek	Nanwalek IRA Council		$15,473.22	$2,223.73
Nikiski	Nikiski Community Council	Nikiski Community Park Upgrades	$7,736.61	$20,058.58
	United Methodist Church	Nikiski Neighbors Food Pantry	$7,736.61	$20,058.58
Ninilchik	Ninilchik Senior Center	Water System Repairs	$3,868.30	$1,901.87
	Ninilchik Library	Library Operations	$3,868.31	$1,901.87
	Saturday Lunch Program	Take and make lunches	$3,868.30	$1,901.87
	Kenai Peninsula Fair Grounds	Pavement repairs	$3,868.31	$1,901.87
Nikolaevsk	Nikolaevsk Community Center	Community Center	$15,473.22	$2,952.97
Port Graham	Native Village of Port Graham	Emergency Preparedness	$15,473.22	$1,458.48

Primrose	Moose Pass Volunteer Fire Department	Operating Expenses, Medical Supplies	$15,473.22	$864.28
Razdolna	Village of Razdolna Inc.	School driveway repairs for safety of students	$15,473.22	$2,052.67
Seldovia Village	Seldovia Village Tribe	Dry Hydrant Installation	$15,473.22	$1,791.59
Sterling	Sterling Area Seniors Center	General Operations-Senior Center	$7,736.61	$26,639.73
	Sterling Community Center	Senior Center operating costs	$7,736.61	$26,639.73
Tyonek	Boys and Girls Club of Tyonek	Youth services	$15,473.22	$1,368.45
Voznesenka	Vozneska Community Council, Inc	Stroyka community facility completion projects	$15,473.22	$2,052.67
		TOTAL TO COMMUNITIES	**$402,303.72**	**$ 302,706.24**

SECTION 6. That each eligible non-profit or tribal entity, representing an unincorporated community, must enter into a grant agreement with the Borough prior to receipt of any community assistance program funds.

SECTION 7. That due to the length and nature of this project, a community shall forfeit any remaining grant distribution at the end of two consecutive fiscal years if the community has not fulfilled the intent and purpose of its grant agreement.

SECTION 8. This ordinance shall be effective retroactive to July 1, 2022.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2023.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

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Kenai Peninsula Borough
Community & Fiscal Projects

MEMORANDUM

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

THRU: Mike Navarre, Mayor MN
Brandi Harbaugh, Finance Director BH

FROM: Rachel Chaffee, Community & Fiscal Projects Manager RC

DATE: December 1, 2022

RE: Ordinance 2022-19-35, Accepting and Appropriating Funding from the State of Alaska in the Amount of $426,303 for Fiscal Year 2023, Allocating a One-Time Bonus Amount Based on A Per-Capita Calculation in the Amount of $308,883.91, and Approving Projects to be Completed for Community Purposes Under the State's 2022/2023 Community Assistance Programs (Mayor)

The Community Assistance Program provides state funding for unincorporated communities to complete public projects or services through nonprofit or tribal entities that agree to be the fiduciary. These funds are provided through the State of Alaska Community Assistance Program.

The Borough is required to annually evaluate the eligibility of unincorporated communities, ensuring that the communities meet the required program regulations as outlined in the Alaska Administrative Code and the Alaska Statutes Title 29. 26 unincorporated communities were eligible to participate in the 2022/2023 Community Assistance Program. The eligible communities were asked to hold public meetings and determine how the funding will be utilized within the community.

Funding in the amount of $410,514 has been awarded to distribute evenly between the unincorporated communities. Each community is funded $15,789, less 2.0 percent administrative cost. In addition, a bonus amount of $308,883.91 was awarded to the Borough and will be allocated to the communities based on a per-capita calculation for the 26 unincorporated communities provided on the initial CAP grant application. The total funding amount under this ordinance to be allocated to the 26 unincorporated communities is $719,397.91

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It is recommended to pass the funding through to the 26 communities based on their population from the 2020 census data. A calculation has been done that allocates the funding to each community accordingly, and then to each nonprofit selected within the community based on the community's wishes.

24 of the 26 communities have held local public meetings to determine how the funds should be spent within the community. The two communities that have not yet held meetings are Nanwalek and Clam Gulch.

The Community and Fiscal Project Manager oversees the program.

Your consideration is appreciated.

FINANCE DEPARTMENT FUNDS/ACCOUNT VERIFIED

Acct. No. 271.94910.23CAP.49999

Amount: $ 719,397.91

By: CJ Date: 12/2/2022

Kenai Peninsula Borough
CAP Allocation of Bonus Amounts
#######

Community Name:	Number of Citizens 2020 Census	% of total	Additional Allocation Amount Applied to amount
Anchor Point	2,105	6%	$ 18,951.21
Bear Creek	2,129	6%	$ 19,167.28
Cohoe	1,471	4%	$ 13,243.34
Cooper Landing	344	1%	$ 3,097.02
Clam Gulch	207	1%	$ 1,863.61
Crown Point	119	0%	$ 1,071.35
Diamond Ridge	1,330	4%	$ 11,973.93
Fritz Creek	2,248	7%	$ 20,238.64
Funny River	1,103	3%	$ 9,930.26
Hope	161	0%	$ 1,449.48
Kachemak Selo	228	1%	$ 2,052.67
Kalifornsky Beach	8,487	25%	$ 76,408.05
Kasilof	525	2%	$ 4,726.55
Lowell Point	79	0%	$ 711.23
Moose Pass	228	1%	$ 2,052.67

Nanwalek	247	1%	$ 2,223.73
Nikiski	4,456	13%	$ 40,117.15
Ninilchik	845	3%	$ 7,607.49
Nikolaevsk	328	1%	$ 2,952.97
Port Graham	162	0%	$ 1,458.48
Primrose	96	0%	$ 864.28
Razdolna	228	1%	$ 2,052.67
Seldovia Village	199	1%	$ 1,791.59
Sterling	5,918	18%	$ 53,279.47
Tyonek	152	0%	$ 1,368.45
Voznesenka	228	1%	$ 2,052.67
	33,623	100%	302,706.24 -

Fox River Split between Voz, Raz, and K-Selo
685 Rounded to 684 for division by 3

Introduced by:	Mayor
Date:	04/05/22
Action:	Adopted
Vote:	7 Yes, 0 No, 0 Absent, 2 Abstained

KENAI PENINSULA BOROUGH
RESOLUTION 2022-017

A RESOLUTION APPROVING TWENTY-SIX UNINCORPORATED COMMUNITIES FOR PARTICIPATION IN THE STATE'S FISCAL YEAR 2023 COMMUNITY ASSISTANCE PROGRAM

WHEREAS, the Community Assistance Program ("CAP") as governed by AS 29.60.865 and 3 AAC 180.010 require the assembly of a borough or a unified municipality to adopt a resolution identifying those unincorporated communities located within their municipal boundaries that the assembly determines meet the CAP eligibility criterial established under AS 29.60.865, AS 29.60.879, and 3 AAC 180.110; and

WHEREAS, AS 29.60.865 requires the unincorporated communities have either a Native village council or an incorporated non-profit entity within its boundaries that will agree to receive and spend the CAP payment for the public benefit of the unincorporated community; and

WHEREAS, per AS 29.60.879(1) the definition of "community" for the purposes of AS 29.60.850 – AS 29.60.879 means a place in the unorganized borough, in a borough, or in a unified municipality that is not incorporated as a municipality, that is not a reserve, and in which 25 or more individuals reside as a social unit; and

WHEREAS, under AS 29.60.865(c) eligibility requirements at least three of the following services must be generally available to all residents of the unincorporated community: fire protection, emergency medical, water and sewer, solid waste management, public road or ice road maintenance, public health, and search and rescue, and each of the three services, in any combination, are provided by one or more qualifying Native village council or incorporated nonprofit entity or are substantially paid for by residents of the unincorporated community through taxes, charges, or assessments levied or authorized by the borough or unified municipality; and

WHEREAS, in addition, AS 29.60.865(a) requires that eligible Native village councils waive immunity from suit for claims arising out of activities of the council related to the payment;

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

SECTION 1. The assembly hereby determines that the following 26 unincorporated communities and their respective native village council or incorporated nonprofit entities are eligible for funding under the state's fiscal year 2023 Community Assistance Program:

Unincorporated Community	Possible Community Recipient
Anchor Point	Anchor Point Public Library Anchor Point Food Pantry Anchor Point Senior Citizens, Inc. Anchor Point Safewater Association Snomads, Inc. Anchor Point Chamber of Commerce Kachemak Gun Club
Bear Creek	Bear Creek Volunteer Fire & EMS
Clam Gulch	Caribou Hills Cabin Hoppers
Cohoe	Boys & Girls Club of the Kenai Peninsula
Cooper Landing	Cooper Landing Community Club
Crown Point	Moose Pass Volunteer Fire & EMS
Diamond Ridge	Homer Cycling Club Kachemak Nordic Ski Club Kachemak Ski Club Snomads, Inc.
Fritz Creek	Kachemak Nordic Ski Club Snomads, Inc.
Funny River	Funny River Chamber of Commerce
Hope	Hope, Inc.
Katchemak Selo	Village of Kachemak Selo Water Co., Inc.
K-Beach	Cook Inlet Aquaculture Association Kenai Peninsula Food Bank Love, Inc. Bridges dba Peninsula Spay/Neuter Fund Tsalteshi Trails Association
Kasilof	Kasilof Regional Historical Association Kasilof-Cohoe Cemetery Association
Lowell Point	Lowell Point Community Council
Moose Pass	Moose Pass Volunteer Fire Co. (Crown Point Unit) Moose Pass Chamber of Commerce & Visitor Bureau Moose Pass Sportsmen's Club
Nanwalek	Nanwalek IRA Council Project GRAD Chugachmiut, Inc.
Nikiski	N. Peninsula Community Council Nikiski Senior Center North Star United Methodist Church
Nikolaevsk	Nikolaevsk, Inc.
Ninilchik	Kenai Peninsula Fair Association Ninilchik Community Library

Unincorporated Community	Possible Community Recipient
	Bridges dba Ninilchik Saturday Lunch Program
	Ninilchik Senior Citizens
Primrose	Moose Pass Volunteer Fire Co. (Primrose Unit)
Port Graham	Port Graham Village Council
Razdolna	Village of Razdolna, Inc.
Seldovia	Seldovia Village Tribe
Sterling	Sterling Community Club
	Sterling Area Senior Citizens
	Sterling RuralCAP Headstart Program
Tyonek	Boys & Girls Clubs of Southcentral Alaska
Voznesenka	Voznesenka Community Council, Inc.

SECTION 2. This resolution is effective immediately upon adoption.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 5TH DAY OF APRIL, 2022.

Brent Johnson

Brent Johnson, Assembly President

ATTEST:

John Blankenship

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Chesley, Cox, Derkevorkian, Ecklund, Elam, Tupper
No:	None
Absent:	None
Abstained:	Hibbert, Johnson

Introduced by:	Mayor
Date:	03/19/13
Action:	Adopted
Vote:	6 Yes, 0 No, 3 Absent

KENAI PENINSULA BOROUGH
RESOLUTION 2013-022

A RESOLUTION MAKING CHANGES TO THE BOROUGH'S COST ALLOCATION PLAN FOR CAPITAL PROJECTS

WHEREAS, Resolution 2006-036 established a cost allocation plan using an indirect rate that charge service areas, grants and capital projects a fee for intergovernmental services that were provided by the borough's General Fund; and

WHEREAS, the services provided include, but are not limited to: processing of payroll, purchasing, accounts payable, cash receipts, cash disbursements, cash management, grant management, real and personal property valuation, tax billing and collection, miscellaneous billing and collection, legal services, and computer support services; and

WHEREAS, the assembly in FY10 eliminated the charge to service areas and the current indirect rate being charged to grants and capital projects is 3.04 percent; and

WHEREAS, for large capital projects and capital equipment purchases, the rate being charged can generate cost recovery in excess of the costs that were incurred; and

WHEREAS, allowing a reduced indirect rate on capital projects and capital equipment is more reflective of the time and cost incurred for these projects;

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

SECTION 1. The indirect rate for capital projects less than $500,000 shall be 2 percent of the project budget and the indirect rate for capital projects $500,000 or greater shall be 1 percent.

SECTION 2. The indirect rate for capital equipment purchases less than $500,000 shall be 1 percent of the project budget and the indirect rate for capital equipment purchases $500,000 or greater shall be 0.5 percent.

SECTION 3. That this resolution takes effect retroactive to January 1, 2013.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 19TH DAY OF MARCH, 2013.

_____
Linda Murphy, Assembly President

ATTEST:

_____
Johni Blankenship, MMC, Borough Clerk

Yes:	Haggerty, Johnson, Pierce, Smith, Wolf, Smalley
No:	None
Absent:	McClure, Murphy, Tauriainen

Introduced by:	Mayor
Date:	12/13/22
Hearing:	01/03/23
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-19-36

AN ORDINANCE ACCEPTING AND APPROPRIATING $61,000 FROM THE STATE OF ALASKA DEPARTMENT OF MILITARY AND VETERAN AFFAIRS, DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT FOR THE SIREN WARNING SYSTEM REPLACEMENT PROJECT WITHIN THE CITY OF HOMER

WHEREAS, the State of Alaska Department of Military and Veterans Affairs, Division of Homeland Security & Emergency Management ("DHS&EM") provides funds to enhance the capability of local governments to prevent, deter, respond to and recover from all-hazard incidents and to enhance regional preparedness efforts; and

WHEREAS, the DHS&EM 2022 National Oceanic and Atmospheric Administration Tsunami Hazard Mitigation Program is a federal grant pass through program with the U.S. Department of Commerce which provides funding for tsunami hazard projects; and

WHEREAS, DHS&EM approved the Kenai Peninsula Borough's ("Borough") request for $61,000 to purchase and install sirens within the City of Homer; and

WHEREAS, the City of Homer will be responsible for additional costs necessary to connect the new sirens to the Borough's existing mass notification system as cited in the Memorandum of Agreement between the Borough and the City; and

WHEREAS, it is in the best interests of the Borough to accept the grant funds;

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

SECTION 1. That the mayor is authorized to accept $61,000 from the State of Alaska Department of Military and Veteran Affairs, Division of Homeland Security and Emergency Management and to execute a grant agreement and any other documents deemed necessary to accept and to expend the grant funds and to fulfill the intents and purposes of this ordinance.

SECTION 2. That grant funds in the amount of $61,000 are appropriated to the account 271.94910.23NOA.49999 to purchase and install sirens within City of Homer, not to include cost of connection to the Borough's existing mass notification system.

SECTION 3. That appropriations made in this ordinance are project length in nature and as such do not lapse at the end of any particular fiscal year.

SECTION 4. That this ordinance shall be effective retroactive to September 1, 2022

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2023.

_____
Brent Johnson, Assembly President

ATTEST:

_____
Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

DocuSign Envelope ID: F71B99C3-0A99-47EF-ACD9-A5B9DA6B9A47

Kenai Peninsula Borough
Office of Emergency Management

MEMORANDUM

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

THRU: Mike Navarre, Mayor MN
Brandi Harbaugh, Finance Director BH

FROM: Brenda Ahlberg, Emergency Manager BA

DATE: December 1, 2022

RE: Ordinance 2022-19-36, Accepting and Appropriating $61,000 from the State of Alaska Department of Military and Veteran Affairs, Division of Homeland Security and Emergency Management for the Siren Warning System Replacement Project within the City of Homer (Mayor)

The Borough received award notification in the amount of $61,000 under the 2022 National Oceanic and Atmospheric Administration Tsunami Hazard Mitigation Program, which is a federal grant, pass through program under the U.S. Department of Commerce. The Alaska Division of Homeland Security and Emergency Management ("AKDHSEM") oversees this program to support local jurisdictions' tsunami preparedness programs. These funds will be allocated for costs to purchase and install new sirens within the City of Homer city limits.

In 2020, the Borough and the City of Homer entered into a Memorandum of Agreement ("MOA") executing the responsibilities of both parties for the Borough's existing siren warning system ("system"). Additional sirens added within the City's jurisdiction are Borough assets; therefore, the Borough and the City will work within the executed MOA and in compliance with the federal grant regulations to complete the award objectives. The City of Homer will be responsible for any additional costs above the $61,000 grant award. Brenda Ahlberg, Emergency Manager will oversee grant compliance; the grant performance period is 09/01/22 through 08/31/2023.

Your consideration is appreciated.

Attachment: AKDHSEM Award Letter 11/22/2022

FINANCE DEPARTMENT
FUNDS/ACCOUNT VERIFIED

Acct. No. 271-11250-23NOA-49999

Amount $61,000

By: CY Date: 11/29/2022

THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Military and Veterans Affairs

Division of Homeland Security and Emergency Management

P.O. Box 5750
JBER, AK 99505-0800
Main: 907.428.7000
Fax: 907.428.7009
ready.alaska.gov

November 22, 2022

The Honorable Mike Navarre, Mayor
Kenai Peninsula Borough
144 North Binkley Street
Soldotna, AK 99669

RE: 2022 NOAA Tsunami Hazard Mitigation Program, NA22NWS4670012
State Grant No.: 20NOAA-GY22

Mayor Navarre:

We received funds from the U.S. Department of Commerce under the 2022 NOAA Tsunami Hazard Mitigation Program. We are pleased to award the Kenai Peninsula Borough the amount of $61,000.00 under this grant. Funding from this program is provided to the ability of states, territories, and urban areas to prevent, protect against, mitigate, respond to, and recover from terrorist attacks and other all–hazards events.

Please review Project Budget Details for approved project specifics. As a reminder, all procurement transactions must be conducted in a manner providing full and open competition. To ensure this, we require a Procurement Method Report with every expense (with the exception of local advertising, legal notices, and travel arrangements) submitted for reimbursement under this grant and pre-approvals may be required at multiple steps in the procurement process. Please see the Procurement Method Report for additional details.

A pre-signed Obligating Award Document (OAD) is attached. Please print the document, sign the OAD, and send a scanned copy to mva.grants@alaska.gov within 30 days of subrecipient receipt. Keep the hard copy for your records.

If the OAD cannot be returned within 30 days, a Notice of Intent to Accept Grant Award form must be submitted. The form and instructions are available for download on our Grants website, http://ready.alaska.gov/grants.htm.

If signatory points of contact have changed since submittal of the application, please complete and return a Signatory Authority Form with the signed OAD. The Signatory Authority Form is available for download on our Grants website. If needed, Electronic Payment enrollment forms are also available upon request.

If you have any questions, please contact the Division Project Manager for this grant, Curtis Johnson, at (907) 428-7046 or by email at curtis.johnson@alaska.gov.

Sincerely,

William A. Dennis
Administrative Operations Manager

Enclosure(s): Obligating Award Document
Project Budget Details Report

cc: Brenda Ahlberg, Jurisdiction Project Manager
Brandi Harbaugh, Jurisdiction Chief Financial Officer

Introduced by:	Mayor
Date:	12/13/22
Hearing:	01/03/23
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-19-37

AN ORDINANCE APPROPRIATING $13,078.54 FROM THE RIVER CENTER BUILDING MAINTENANCE RESERVE FUND AND $6,625.18 FROM THE 911 COMMUNICATIONS FUND FOR UNEXPECTED REPAIRS TO THE RIVER CENTER BUILDING

WHEREAS, in 2005 a shared services agreement was signed by the occupants of the Donald E. Gilman River Center ("River Center") which requires that funds be set aside annually by tenants and the Kenai Peninsula Borough ("Borough") to fund major maintenance and repairs of the facility; and

WHEREAS, as of November 10, 2022, $84,930 is available for appropriation from the River Center Repair and Major Maintenance Fund; and

WHEREAS, recently, the River Center was made aware of three unforeseen facility repairs that must be made to maintain operations at the River Center; and

WHEREAS, the three projects consist of migrating from a Siemens Control System to a Desigo Control System, replacing two failing heat pumps, and replacing the Automatic Transfer Switch ("ATS") for the backup generator for the building; and

WHEREAS, the 911 Communication Center became a tenant of the River Center in 2020-2021, as the designated secondary location and backup to the main center and will be sharing in the cost of replacing the ATS for the backup generator in the building; and

WHEREAS, it is in the best interests of the Borough to fund these major repairs now with reserve funds in order to avoid additional future expenditures due to failure and increased maintenance needs;

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

SECTION 1. The amount of $13,078.54 is appropriated from the River Center Repair and Major Maintenance Fund account number 100.27930 to account 100.21135.23RTR.49999 to provide funding for three River Center facility projects: migrating from a Siemens Control System to a Desigo Control System; replacing two failing heat pumps; and replacing the Automatic Transfer Switch (ATC) for the backup generator for the building.

SECTION 2. The amount of $6,625.18 is appropriated from the 911 Communications Fund fund balance to account 264.11255.23RTR.49999 to provide partial funding for replacement of the ATS for the backup generator for the building.

SECTION 3. That appropriations made in this ordinance are project length in nature and as such do not lapse at the end of any particular fiscal year.

SECTION 4. That upon enactment this ordinance is effective retroactive to November 1, 2022.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2023.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

DocuSign Envelope ID: BF255954-411B-4A4E-BC08-5445E98F19A2

Kenai Peninsula Borough
Planning Department – River Center

MEMORANDUM

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

THRU: Mike Navarre, Mayor MN
Robert Ruffner, Planning Director RR
Brandi Harbaugh, Finance Director BH

FROM: Samantha Lopez, River Center Manager SL
Tammy Goggia-Cockrell, 911 Emergency Communications Coordinator TGc

DATE: December 1, 2022

RE: Ordinance 2022-19-37, Appropriating $13,078.54 from the River Center Building Maintenance Reserve Fund and $6,625.18 from the 911 Communications Fund for Unexpected Repairs to the River Center Building (Mayor)

In 2005 a shared services agreement was signed by the occupants of the Donald E. Gilman River Center which require that funds be set aside annually by tenants and the Borough to fund major maintenance and repairs of the facility. As of November 10, 2022, $84,930 is available for appropriation from this reserve fund for repairs.

Recently, the River Center was made aware of three unforeseen repairs that must be made to maintain operations at the River Center:

1. **Finishing the FY2022 project, migrating from Siemens to Desigo Control Systems ($3,013.36)**
   In FY2022, $9,083.15 was appropriated from this fund, but a portion of the work was not completed. $3,013.36 has already been appropriated from our Building/Grounds Maintenance account. This appropriation will replenish that.

2. **Replacing two failing heat pumps ($2,070.00 and $1,370.00)**
   Pump #1 was found to be leaking, corroded, and in need of replacement. Cost of inventory replacement is $2,070.00. Pump #2 has already been replaced from Maintenance's inventory, cost to replace is $1,370.00.

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3. **Replacing the Automatic Transfer Switch (ATS) for the backup generator ($6,625.18)**
   Using CARES funds in 2020, a backup emergency 911 response center was installed at the River Center. Part of this project included the installation of a backup generator that used an ATS to provide power to the building in the event of a power outage. Recently, the ATS was found to be incorrectly installed, and must be replaced.

The 911 Dispatch Center (911) became a tenant of the River Center in 2020-2021 in order to house a secondary location and backup for the center. Since 911 had not contributed to the Major Maintenance Fund, it is providing half of the cost to replace and repair the ATS, as this is critical to its operations.

The KPB Maintenance Department estimates the total cost of the ATS replacement to be $23,000, spread over FY2023 and FY2024. Because the ATS supports functions of the River Center and backup E911 center, project costs will be shared between the E911 and River Center departments. The River Center's portion of FY2023 costs are expected to be $6,625.18.

This ordinance appropriates supplemental funding from the River Center Building Major Maintenance and Repair Reserve Fund in the amount of $13,078.54 and $6,625.18 from the 911 Communications Fund to complete these projects.

Your consideration is appreciated.

FINANCE DEPARTMENT
FUNDS/ACCOUNT VERIFIED

Account: 100.27930 **Amount:** $13,078.54

Account: 264.27910 **Amount:** $ 6,625.18

By: CJ Date: 11/28/2022

Introduced by:	Mayor
Date:	12/13/22
Hearing:	01/03/23
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-19-38

AN ORDINANCE APPROPRIATING $475,250 FROM THE INSURANCE AND LITIGATION FUND FOR ADDITIONAL COST OF INSURANCE CLAIMS INCURRED IN FY2023

WHEREAS, the Kenai Peninsula Borough, including service areas, and the Kenai Peninsula School District are self-insured for insurance including but not limited to property, liability, workers' compensation and travel; and

WHEREAS, during FY2023, the number of large claims and their associated cost have been higher than projected; and

WHEREAS, the original FY2023 budgeted amount was based on historical claims experience, and in the first four months of FY2023, claims have been recorded in aggregate, estimated to be up to about $548,500; and

WHEREAS, it is estimated that an additional $475,250 is needed to supplement the current FY2023 budget amount;

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

SECTION 1. That funds in the amount of $475,250 are appropriated from the Insurance and Litigation Fund fund balance to 700.11238.43999 to reestablish claim reserves for FY2023.

SECTION 2. That this ordinance shall be effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2023.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

DocuSign Envelope ID: 25183928-94D0-4FD1-85F9-DF3FC05E6036

Kenai Peninsula Borough
Risk Management

MEMORANDUM

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

THRU: Mike Navarre, Mayor MN
Brandi Harbaugh, Finance Director BH

FROM: Sovala Kisena, Risk Manager SK

DATE: December 1, 2022

SUBJECT: Ordinance 2022-19-38, Appropriating $475,250 from the Insurance and Litigation Fund for Additional Costs of Insurance Claims Incurred in FY2023 (Mayor)

The Kenai Peninsula Borough, including service areas and the Kenai Peninsula Borough School District, are self-insured for accidental losses including but not limited to property, liability, workers' compensation and travel losses.

In the first half of FY2023, the number of potentially large claims and their associated reserves for costs has been higher than projected. The original FY2023 budgeted amount was based on historical claims experience. However, in the first four months of FY2023, a higher number of such claims have been recorded with aggregate potential liability estimated to potentially be up to a total of $548,500.

This ordinance would appropriate $475,250 from the Insurance and Litigation Fund fund balance to provide the additional funds needed to ensure adequate funds are available for potential additional claims for this fiscal year.

Your consideration is appreciated.

FINANCE DEPARTMENT
ACCOUNT / FUNDS VERIFIED

Acct. No. 700.27910 (FB)

Amount: $ 475,250

By: CJ Date: 11/29/2022

Introduced by: Mayor
Date: 12/13/22
Hearing: 01/03/23
Action:
Vote:

KENAI PENINSULA BOROUGH
ORDINANCE 2022-43

AN ORDINANCE AUTHORIZING A SUBSURFACE OIL AND GAS LEASE TO HILCORP ALASKA, LLC, IN THE NINILCHIK UNIT

WHEREAS, the Kenai Peninsula Borough ("Borough") owns the surface and mineral estate in the 7.49-acre parcel described as: Township 03 South, Range 14 West, Seward Meridian, Section 30, the north 2/5 of Govt Lot 1 lying east of the Sterling Highway right-of-way, containing 7.49 acres more or less; and

WHEREAS, said Govt Lot 1 was purchased jointly by the Land Trust Fund and the Anchor Point Fire & Emergency Medical Service Area ("APFEMSA") pursuant to Borough Ordinance 2015-19-05; and

WHEREAS, in 2020, APFEMSA reorganized as the Western Emergency Service Area ("WESA"); and

WHEREAS, the negotiated lease royalty on production rate is 12.50 percent (12.50%); and

WHEREAS, 13.0 percent (13%) of the total royalties received on production will be distributed as revenue to WESA, then the remaining royalties on production will be distributed to the Land Trust Fund; and

WHEREAS, in addition, the lease includes a 5-year renewal option in the amount of $224.70, 13.0 percent (13%) of which will be distributed as WESA revenue with the remainder distributed to the Land Trust Fund; and

WHEREAS, Hilcorp Alaska, LLC ("Hilcorp") currently has an oil and gas leasehold for 2,100 subsurface acres of adjoining and surrounding parcels comprising the Ninilchik Unit; and

WHEREAS, Hilcorp has already developed the off-site infrastructure necessary to extract natural gas from said lands; and

WHEREAS, the Borough and Hilcorp have negotiated a lease on said land for subsurface oil and gas extraction operations; and

WHEREAS, WESA at its regularly scheduled meeting of December 14, 2022, recommended _____; and

WHEREAS, the Anchor Point Advisory Planning Commission at its regularly scheduled meeting of December 8, 2022, recommended _____; and

WHEREAS, the Borough Planning Commission at its regularly scheduled meeting of December 12, 2022 recommended _____;

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

SECTION 1. That the Assembly finds that granting a subsurface oil and gas lease to Hilcorp Alaska, LLC under Township 03 South, Range 14 West, Seward Meridian, Section 30 in the North 2/5 of Govt Lot 1 lying east of the Sterling Highway right-of-way, containing 7.49 acres more or less, pursuant to KPB 17.10.100(J), is in the best interests of the Borough.

SECTION 2. That this oil and gas lease provides no surface use pursuant to KPB 17.10.100(J) and is therefore excluded from the other provisions of KPB 17.10.

SECTION 3. That based on the foregoing, the mayor is hereby authorized pursuant to KPB 17.10.100(J) to lease the oil and gas interests described in Section 1 to Hilcorp at the rate of 12.50 percent (12.5%) royalties on production paid to the Borough for a primary term of 5-years, with a 5-year option to extend the lease term. The authorization is for lease solely to Hilcorp, and it may not assign any rights to negotiate or enter an agreement for lease to any other person or entity. Once entered, the lease may be assigned or subleased pursuant to the terms of the lease agreement.

SECTION 4. The mayor is authorized to sign any documents necessary to effectuate this ordinance.

SECTION 5. Hilcorp must execute a lease document substantially similar to the attached lease within 180-days of the effective date of this ordinance.

SECTION 6. That 13.0 percent (13%) of the total lease royalty on production payments and other payments under the lease will be distributed to WESA. The remainder, equivalent to 87.0 percent (87%) of the total royalty on production payments and other payments under the lease, will be distributed to the Land Trust Fund.

SECTION 7. That this ordinance shall take effect immediately upon enactment

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2023.

_____
Brent Johnson, Assembly President

ATTEST:

_____
Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

DocuSign Envelope ID: 75832365-CFC0-481F-88EE-B0F28DC96AB3

Kenai Peninsula Borough
Land Management Division

MEMORANDUM

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

THRU: Mike Navarre, Mayor MN
Brandi Harbaugh, Finance Director BH
Robert Ruffner, Planning Director RR
Jon Marsh, WESA Fire Chief JM
Marcus Mueller, Land Management Officer mam

FROM: Julie Denison, Land Management Technician JD

DATE: December 1, 2022

RE: Ordinance 2022-43, Authorizing a Subsurface Oil and Gas Lease to Hilcorp Alaska, LLC, in the Ninilchik Unit (Mayor)

The Kenai Peninsula Borough (the "Borough" or "KPB") owns the surface and mineral estate in the North 2/5 of Govt Lot 1 lying east of the Sterling Highway right-of-way in Anchor Point. The property (KPB Parcel Number 159-200-02) was purchased jointly with Land Trust Fund and Anchor Point Fire & Emergency Medical Service Area ("APFEMSA") funding. In 2020, APFEMSA expanded services into Ninilchik and reorganized as the Western Emergency Service Area ("WESA").

Hilcorp Alaska, LLC ("Hilcorp") currently has oil and gas leaseholds of surrounding parcels and is working on production plans. Hilcorp seeks an oil and gas lease from the Borough, which has been negotiated consistent with KPB 17.10.100(J). The negotiated royalty rate is 12.50 percent (12.50%). Thirteen percent of the total lease royalty on production payments and other payments under the lease will be distributed to WESA. The remainder, equivalent to eighty-seven percent, of the total royalty on production payments and other payments under the lease will be distributed to the Land Trust Fund and provide an important revenue stream to the Land Trust Fund.

Pursuant to KPB 17.10.100(J), no surface uses are allowed under this proposed lease.

The WESA board will consider the Ordinance at its meeting to be held December 14, 2022. The Anchor Point Advisory Planning Commission will consider the Ordinance at its meeting to be held December 8, 2022. The Borough Planning Commission will consider the Ordinance at its meeting on December 12, 2022.

Your consideration is appreciated.

SUBSURFACE LEASE WITH HILCORP ALASKA, LLC



OIL AND GAS LEASE
Paid-Up

This Oil and Gas Lease ("Agreement") is made as of _____ day of _____, 2022, ("Effective Date") by and between **Kenai Peninsula Borough,** ("Lessor"), whose address is 144 N. Binkley St., Soldotna, AK 99669, and Hilcorp Alaska, LLC ("Lessee"), a Delaware limited liability company with offices located at 3800 Centerpoint Drive, Suite 1400, Anchorage, Alaska 99503.

1. GRANT.

For and in consideration of the sum of Ten Dollars ($10.00), and other valuable consideration, receipt of which is hereby acknowledged, and of the covenants and agreements herein contained, Lessor does hereby grant, demise, lease, and let unto Lessee the lands described in Exhibit "A", with the exclusive rights of conducting geological, geophysical, and other exploratory work for oil, gas, and associated substances, and for exploring, investigating, prospecting, marketing, drilling and operating wells (including directionally drilled wells) for producing and marketing oil, gas, and associated substances, producing, owning, saving, storing, taking care of, venting, treating and transporting oil, gas, and associated substances therein, drilling and using wells for secondary and tertiary recovery methods, storing oil, gas, and associated substances on or below the surface, and, together with the non-exclusive rights to lay pipe, telephone and power lines, build and maintain roads and equipment, construct power stations, tanks and other facilities and structures, the right to remove all of said oil, gas, and associated substances, or water, or either of them, and the free and uninterrupted right and right-of-way into, through and under the said land at such points and in such manner as may be convenient or necessary for the purpose of conducting all said oil, gas, and associated substances operations on behalf of the lease, pool, or unit.

The premises leased hereby being that tract of land with any reversionary rights therein situated in the KENAI PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, STATE OF ALASKA. *See attached Exhibit "A"*

2. TERM.

2.1 Primary Term. Subject to the other provision herein contained, this lease shall be for a term of FIVE (5) years from the effective date and as long thereafter as oil or gas and associated substances is produced in paying quantities from the Leased Premises hereunder, or lands pooled or unitized herewith, or drilling or reworking operations for oil, gas, and associated substances, are conducted thereon as hereinafter provided ("Extended Term"), or Lessee makes shut-in royalty payments.

2.2 Extension of Primary Term. Lessee shall have the option, but not the obligation to extend the primary term of this lease for an additional FIVE (5) year period

from the expiration of the original primary term. This option may be exercised at any time prior to the end of the primary term by written notice to Lessor, which notice must be accompanied by a certified check or cashier's check in an amount equal to THIRTY dollars ($30.00) per net mineral acre times the number of acres then comprising the leased premises or such portion of the leased premises designated by Lessee in said notice. Said option may be exercised on the entirety of the leased premises or such portion thereof. Should this option be exercised as herein provided, it shall be considered for all purposes as though this Lease, limited to the portion of the Leased Premises covered by Lessee's notice and payment, provided for a Primary Term of TEN (10) years.

3. ROYALTY ON PRODUCTION.

3.1 Royalty Rate. Except for oil, gas, and associated substances used on the Leased Premises for exploration, development and production, or unavoidably lost, the Lessee shall pay to the Lessor as a royalty Twelve and One-Half Percent (12.50%) in amount or value of the oil, gas, and associated substances saved, removed, or sold from the Leased Premises.

3.2 Valuation. For the purpose of computing royalties due under this lease, the value of royalty oil, gas, or associated substances shall be the highest of:

(A) The field price received by the Lessee for the oil, gas, or associated substances;

(B) The Lessee's posted price in the field or area for the oil, gas, or associated substances; or

(C) The arithmetic average of the three highest posted prices in the same field or area for oil of like grade and gravity, gas of like kind and quality, or associated substances of like kind and quality at the time the oil, gas, or associated substances are sold or removed from the Leases Premises or pooled or unit area; if there are less than three prices posted, the arithmetic average will be calculated using the lesser number of prices posted in the field or area.

3.3 Field Price.

(A) If oil, gas, or associated substances are sold away from the Leased Premises or pooled or unit area, the term "field price" in subparagraph (A) above will be the cash value of all consideration received by the Lessee or other producer from the purchaser of the oil, gas, or associated substances, less the reasonable costs of transportation away from the Leased Premises or pooled or unit area to the point of sale.

(B) In the event the Lessee does not sell in an arms' length transaction the oil, gas, or associated substances, the term "field price" in subparagraphs (B) and (C) above will mean the value utilized by the Lessee to pay royalty to the State for similar dispositions from State leases in the same field or area, minus reasonable costs of transportation away from the Leased Premises or pooled or unit area to the point of sale or other disposition.

3.4 Deductions. In computing the royalty, Lessee may deduct the costs of heating, sweetening, gathering, transporting, dehydrating, compressing, extracting, processing, manufacturing or any other postproduction cost.

3.5 Shut-In Royalties. Should Lessee complete a well on the Leased Premises capable of producing in commercial quantities which is shut-in from a lack of market or otherwise, or gas is not being used or sold therefrom, then Lessee within one hundred twenty (120) days after the date on which said well is shut-in, shall pay Lessor the sum of two dollars ($2.00) per acre and shall thereafter pay as shut-in royalty to Lessor annually the sum of two dollars ($2.00) per acre until said well is placed on production. It is understood that this payment shall hold the entire Leased Premises.

3.6 Gas Extraction. In the event Lessee shall extract in a plant other hydrocarbons from the gas produced from the Leased Premises, Lessee shall pay Lessor as royalty Forty Percent (40%) of the Lessor's royalty share of the value, as hereinabove defined, of the other hydrocarbons credited to the Leased Premises from the gas so treated.

4. SUCCESSORS AND ASSIGNS AND CHANGE OF OWNERSHIP.

The rights and estate of any party hereto may be assigned from time to time in whole or in part and as to any mineral or horizon. All of the covenants, obligations, and considerations of this lease shall extend to and be binding upon the parties hereto, their heirs, successors, assigns and successive assigns. No change or division in ownership of said land, royalties, or other monies, or any part thereof, howsoever affected, shall increase the obligations or diminish the rights of the Lessee. Notwithstanding any other actual or constructive knowledge or notice thereof of or to Lessee, its successors or assigns, no change or division in ownership of the Leased Premises or of the royalties, or other monies, or the right to receive the same, howsoever affected, shall be binding upon the Lessee of this lease until forty-five (45) days after there has been furnished to such Lessee at his or its principal place of business by Lessor or Lessor's heirs, successors, or assigns, notice of such change or division, supported by either originals or duly certified copies of the instruments which have been properly filed for record and which evidence such change or division, and of such court records and proceedings, transcripts, or other documents as shall be necessary in the opinion of such Lessee to establish the validity of such change of division.

5. LESSER OR GREATER INTEREST PROVISION.

If Lessor owns a lesser interest in the oil, gas, and associated substances underlying the Leased Premises than the entire undivided fee simple estate, then the rentals and royalties hereunder shall be paid to Lessor only in the proportion which Lessor's interest bears to the whole and undivided fee; however, if title to any interest in the Leased Premises should become owned by or revert to Lessor, or his heirs, devisees, executors, administrators or his or their successors in interest, this lease shall cover such interest or reversion. If the true acreage of the Leased Premises shall be found to be less than the number of acres above recited, the rental and royalty hereunder shall be reduced proportionately, and Lessor hereby releases Lessee from payment of rental or royalty upon any acreage in excess of the true acreage of the Leased Premises.

6. FORCE MAJEURE.

6.1 Extension of Term. If any operation permitted or required hereunder, or the performance by Lessee of any covenant, agreement or requirements hereof is delayed or interrupted directly or indirectly by any past or future acts, orders, regulations or requirements of the Government of the United States or any state or other governmental body, or any agency, officer, representative or authority of any of them, or by the elements, fire, storm, flood, volcano eruptions and flows resulting therefrom or because of delay or inability to secure materials in the open market, acts of war or conditions attributable to war or on account of any other similar or dissimilar causes beyond the control of Lessee, the period of such delay or interruption shall not be counted against the Lessee, and the Primary Term and Extended Term of this lease shall automatically be extended so long as the cause or causes for such delays or interruptions continue and such extended term shall constitute and shall be considered for the purposes of this lease as a part of the primary term hereof.

6.2 Damages. The Lessee shall not be liable to Lessor in damages for failure to perform any operation permitted, or required hereunder or to comply with any covenant, agreement or requirement hereunder during the time Lessee is prevented by acts beyond its control from complying with such covenants, agreements or requirements, except for the payments provided herein and in Section 3 hereof.

7. DEFAULT AND TERMINATION RIGHTS.

7.1 Failure to Perform. This lease shall be subject to all valid federal, state and local laws, orders, rules and regulations and shall never be forfeited or terminated for failure of Lessee to perform in whole or in part any of its expressed or implied covenants, conditions or obligations until it shall have been first finally judicially determined that such failure exists, and Lessee shall have been given a reasonable time after such final determination within which to comply with any such covenants, conditions or obligations and shall have failed to comply.

7.2 **Retention.** In the event Lessee's rights hereunder shall terminate or be forfeited for any cause, Lessee shall be entitled to designate and retain the following acreage around each well producing, being worked on, or drilling:

(A) if drilling or producing units have not been established for the field in which such acreage is located by order of any State or Governmental Authority, Lessee shall have the right to designate and retain six hundred and forty (640) acres around each well producing oil, gas, and associated substances, each well being worked on, and each well drilling for oil, gas, and associated substances, each such tract to be in as nearly the form of a square as possible with the well in as near the center thereof as practicable.

(B) If drilling or producing units have been established by order of any State or Governmental Authority, Lessee shall be entitled to retain around each well so much of the Leased Premises as is included under such order in the unit on which such well is located.

7.3 **Cessation and Recommencement of Operations.** In the event Lessee shall cease to conduct continuous operations on the Leased Premises, the rights of Lessee hereunder shall terminate and be forfeited upon 180 days' written notice by Lessor, unless Lessee shall have resumed diligent operations within such 180 days.

8. LESSEE USE OF PREMISES.

8.1 **Roads.** Should Lessee utilize any roads owned by Lessor on the Leased Premises, Lessee shall utilize such roads in a prudent manner and so as not to interfere with Lessor's use thereof and Lessee shall, pay all costs of any improvements thereto for its usage, said improvements requiring Lessor's written consent, and Lessee shall maintain said roads in good condition during such usage.

8.2 **Damages and Repairs.** Lessee assumes for itself, its agents and invitees, the liability for prompt payment to Lessor for any and all damages to Lessor's property, equipment, timber, water-wells and other improvements located on the Leased Premises which may be caused by the operations of Lessee, its agents and invitees on said lands. Lessee will repair all damage to the surface of the Leased Premises caused by the operations of itself, its agents, and its invitees, and Lessee shall restore the Leased Premises to a condition as near as reasonably practicable to its former condition. Lessee shall make a good faith effort to comply with Lessor's written request to bury a pipeline to a specified depth if it determines same to be reasonable.

9. WARRANTY OF TITLE.

9.1 **Warranty.** Lessor hereby warrants and agrees to defend the title to the Leased Premises described and agrees that the Lessee, at its option, may pay and discharge in whole or in part any taxes, mortgages, or other liens existing, levied, or assessed on or against the Leased Premises and, in event it exercises such option, it shall be subrogated to the rights of any holder or holders thereof and may reimburse itself by applying to the discharge of any such mortgage, tax or other lien, any royalty occurring hereunder. Lessor warrants specifically only such title to the oil, gas, and associated substances withdrawn from the Leased Premises as it may have, if any. Lessee's sole and exclusive remedy shall be for any monies, royalties or other things of value received by Lessor for or on account of such oil, gas, and associated substances the title to which shall have failed.

9.2 **Third Party Claims.** In the event oil, gas, and associated substances under the Leased Premises, or any part thereof, or any interest in such oil, gas and associated substances or in the royalties payable hereunder with respect thereto, is claimed by others, Lessee shall have the right to withhold without liability for interest thereon, payment of such royalties to the extent of such claim, or to deposit in escrow such royalties in a court of competent jurisdiction until final determination of such claim; provided, however, that Lessor shall have the right, in case of any such adverse claim and the withholding of such royalties, to payment of same to it upon furnishing a bond or other security satisfactory to Lessee as indemnity against such claim until finally determined.

10. TERMINATION PROVISIONS.

At such time as this lease or any portion thereof expires or is terminated, for any reason whatsoever, Lessee agrees to furnish Lessor, within sixty (60) days of request, a Quitclaim Deed or Release covering this lease or any portion of the Leased Premises so affected in appropriate form and duly executed, in order that the Quitclaim Deed or Release may be placed on public record. Lessee shall have a reasonable period of time from the date of said Quitclaim Deed or Release to remove therefrom any property or fixtures placed by Lessee on abandoned land. Any property or fixtures of Lessee left on the abandoned land after the appropriate removal date has lapsed shall, at the option of Lessor, become Lessor's property and fixtures or be removed from said land at the direction of Lessor but at the sole expense of Lessee.

11. NOTICES.

All notices necessary to be given under the terms of this agreement shall be directed as follows:

Lessor: Kenai Peninsula Borough
144 N. Binkley St.

Soldotna, AK 99669

Lessee: Hilcorp Alaska, LLC
3800 Centerpoint Dr., Suite 1400
Anchorage, AK 99503
ATTN: Land Manager
Telephone: (907) 777-8300 // Fax: (907) 777-8301

or to such other address as each party hereto may designate by written notice to the other party. Notice shall be deemed given when actually received by the party entitled to notice or five (5) business days after being sent by certified mail, "return receipt requested," to the last known address of the party entitled to notice.

12. POOLING.

Lessee at its option may pool or combine separate oil, gas, and associated substances in any part or parts of the Leased Premises with other leased lands to form a drilling unit, provided that there be no more than six hundred and forty (640) acres for such combined area, plus a tolerance of 10% thereof, and on each of such unit or units a well (or wells) has been or may be drilled. Notwithstanding anything to the contrary contained in this lease, the commencement of operations for the drilling of a well on any such drilling unit shall have the same force and effect in all respects as the commencement of operations for the drilling of a well on the Leased Premises hereby leased; and drilling or reworking operations conducted on any drilling unit or production of oil, gas, and associated substances anywhere from such drilling unit shall have the same force and effect as drilling or reworking operations conducted on or production obtained from the Leased Premises as to the extension of the term of this lease; provided, however, that in lieu of the royalties elsewhere herein specified, Lessor shall receive from production so pooled such portion of the royalties stipulated herein as the number of acres of the Leased Premises included in such unit bears to the total number of acres in such unit; provided, however, no reduction of shut-in royalties shall be made under this provision.

13. UNITIZATION.

13.1 Unitization. The Lessee may unitize with others, jointly or separately, in collectively adopting and operating under a cooperative or unit agreement for the exploration, development, or operation of the pool, field, or like area or part of the pool, field, or like area that includes or underlies the Leased Premises or any part of the Leased Premises.

13.2 Alteration of Lease Terms. With the consent of the Lessee, and if the Leased Premises is committed to an approved unit agreement, the Lessor herein agrees that the state may establish, alter, change, or revoke drilling, producing, and

royalty requirements of this lease as the state determines necessary or proper. This lease will be extended automatically if all or part of the Leased Premises is committed to an approved unit agreement and will remain in effect for so long as all or part of the Leased Premises remains committed to that unit agreement.

14. OFFSET WELLS.

The Lessee shall drill such wells as a reasonable and prudent operator would drill to protect the Leased Premises from loss by reason of drainage resulting from production on other land. Without limiting the generality of the foregoing sentence, if oil or gas is produced in a well on land other than the Leased Premises, and that well is within 500 feet in the case of an oil well or 1,500 feet in the case of a gas well of lands then subject to this lease, and that well produces oil or gas for a period of 30 consecutive days in quantities that would appear to a reasonable and prudent operator to be sufficient to recover ordinary costs of drilling, completing, and producing an additional well in the same geological structure at an offset location with a reasonable profit to the operator, and that production from that well is draining this Leased Premises, then the Lessee shall within 60 days begin in good faith and diligently prosecute drilling operations for an offset well on the Leased Premises.

15. DEFINITIONS.

The following words have the following meanings unless the context unavoidably requires otherwise:

"Associated Substances" means all substances produced as an incident of production of oil or gas by ordinary production methods and not defined in this lease as oil or gas;

"Drilling" means the act of boring a hole to reach a proposed bottom hole location through which oil or gas may be produced if encountered in paying quantities, and include redrilling, sidetracking, deepening, or other means necessary to reach the proposed bottom hole location, testing, logging, plugging, and other operations necessary and incidental to the actual boring of the hole;

"Gas" means all natural gas (except helium gas) and all other hydrocarbons produced that are not defined in this lease as oil, including gas produced from coal formations or seams;

"Oil" means crude petroleum oil and other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, including liquid hydrocarbons known as distillate or condensate recovered by separation from gas other than at a gas processing plant;

"Paying Quantities" means quantities sufficient to yield a return in excess of out-of-pocket operating costs, even if drilling and equipment costs may never be repaid and the

undertaking considered as a whole may ultimately result in a loss; quantities are insufficient to yield a return in excess of out-of-pocket operating costs unless those quantities, not considering the costs of transportation and marketing, will produce sufficient revenue to induce a prudent operator to produce those quantities.

"Reworking Operations" means all operations designed to secure, restore, or improve production through some use of a hole previously drilled, including, but not limited to, mechanical or chemical treatment of any horizon, plugging back to test higher strata, etc.

16. BINDING AGREEMENT.

This lease states the entire agreement between the parties, and no representation, promise, verbal or written, on behalf of either party shall be binding unless contained herein. This agreement shall be binding upon each of the parties who shall execute the same, regardless of whether or not all of the parties named as Lessor shall execute it. This agreement may be executed in counterpart form and all counterparts together shall be considered as one instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Oil and Gas Lease to be executed the day and year first hereinabove written.

LESSOR(S)

Signature:

_____

Name: _____
Title: _____
Date: _____

Signature:

_____

Name: _____
Title: _____
Date: _____

LESSEE: HILCORP ALASKA, LLC

Signature:

_____

Name: Luke Saugier
Title: Senior Vice President
Date: _____

Acknowledgments on Following Pages

ACKNOWLEDGEMENT OF LESSOR(S)

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by _____.

_____
Notary Public in and for the State of _____
My commission expires: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by _____.

_____
Notary Public in and for the State of _____
My commission expires: _____

ACKNOWLEDGEMENT OF LESSEE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by Luke Saugier, Senior Vice President of Hilcorp Alaska, LLC, a Delaware limited liability company, on behalf of the limited liability company.

_____
Notary Public in and for Alaska
My Commission Expires: _____

EXHIBIT "A"

OIL AND GAS LEASE

THIS OIL AND GAS LEASE made as of _____ day of _____, 2022, by and between **Kenai Peninsula Borough**, hereinafter called "Lessor", and Hilcorp Alaska, LLC, hereinafter called "Lessee".

LEGAL DESCRIPTION

Township 3 South, Range 14 West, Seward Meridian, Alaska

Section 30: THE NORTH 2/5 OF GOVT LOT 1 LYING EAST OF STERLING HWY

Containing 7.49 acres, more or less.

MEMORANDUM OF OIL AND GAS LEASE

This Memorandum of Oil and Gas Lease ("Memorandum") is executed this _____ day of _____, 2022, pursuant to AS 40.17.120 and to the terms of that certain Oil and Gas Lease ("Lease") between the Parties.

1. **Names and Addresses of the Parties:**

   Lessor: **Kenai Peninsula Borough,** whose address is 144 N. Binkley St., Soldotna, AK 99669.

   Lessee: **Hilcorp Alaska, LLC**, whose address is 3800 Centerpoint Drive, Suite 1400, Anchorage, AK 99503.

2. **Effective Date of the Lease:** _____, 2022.

3. **Description of the Real Property Leased ("Leased Premises"):** See Exhibit A, attached hereto.

4. **Rights Granted in the Lease:** Lessor does grant, demise, lease, and let unto Lessee, and Lessee does hereby lease from Lessor, for the sum of Ten Dollars ($10.00), and other good and valuable consideration for the Lease covering the Leased Premises, for the purposes of conducting oil and gas operations as provided in the Lease.

5. **Term of the Lease:** The primary term of the Lease commences the Effective Date of the Lease and expires after a primary term of five (5) years, unless extended as provided in the Lease.

6. **Extension of Lease Term:** The term of the lease may be automatically extended pursuant to the terms of the Lease upon the following conditions, all as further described in the Lease: (a) Production of hydrocarbons in paying quantities from the Leased Premises or a portion thereof; (b) Unitization or pooling of the Leased Premises or a portion thereof; (c) Drilling or reworking operations for hydrocarbons on any part of the Leased Premises; (d) Payment by Lessee of shut-in royalty payments; (e) Force Majeure as defined in the Lease; and (f) the Lessee exercises its option to extend the Lease for an additional FIVE (5) years.

7. **Approval and Consent to Join a Pool or Unit Agreement:** Lessor approves consents and allows the Lessee to pool or combine separate oil, gas, and associated substances in any part or parts of the Leased Premises with other leased lands to form a drilling unit, and/or to unitize with others, jointly or separately, in collectively adopting and operating under a cooperative or unit agreement, without further approval from Lessor.

All the terms, conditions, provisions, and covenants of the Lease are incorporated in this Memorandum by reference. In the event of any inconsistency between the provisions of this Memorandum and those of the Lease, the provisions of the Lease shall control.

IN WITNESS WHEREOF, the Parties have caused this Memorandum to be executed the day and year first herein above written.

LESSOR(S)

Signature:

_____

Name: _____

Title: _____

Date: _____

Signature:

_____

Name: _____

Title: _____

Date: _____

LESSEE: HILCORP ALASKA, LLC

By: _____

Name: Luke Saugier

Title: Senior Vice President

Date: _____

Acknowledgments on Following Pages

ACKNOWLEDGEMENT OF LESSOR

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by _____.

_____
Notary Public in and for the State of _____
My commission expires: _____

ACKNOWLEDGEMENT OF LESSEE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by Luke Saugier, Senior Vice President of Hilcorp Alaska, LLC, a Delaware limited liability company, on behalf of the limited liability company.

_____
Notary Public in and for Alaska
My Commission Expires: _____

(continued on next page)

EXHIBIT A
MEMORANDUM OF OIL AND GAS LEASE

Description of the Real Property Leased ("Leased Premises")

THIS MEMORANDUM OF OIL AND GAS LEASE made as of _____ day of _____, 2022, by and between **Kenai Peninsula Borough**, hereinafter called "Lessor", and Hilcorp Alaska, LLC, hereinafter called "Lessee".

LEGAL DESCRIPTION

Township 3 South, Range 14 West, Seward Meridian, Alaska

Section 30: THE NORTH 2/5 OF GOVT LOT 1 LYING EAST OF STERLING HWY

Containing 7.49 acres, more or less.

Record in the Homer Recording District
After Recording Return To:
Hilcorp Alaska, LLC
3800 Centerpoint Drive, Suite 1400
Anchorage, Alaska 99503
Attn: Land Manager

Introduced by:	Mayor
Date:	07/07/15
Hearing:	07/28/15
Action:	Enacted as Amended
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2015-19-05

AN ORDINANCE AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY AT THE CORNER OF RESCH ROAD AND STERLING HIGHWAY FOR A FILL SITE AND OTHER FUTURE ANCHOR POINT FIRE AND EMERGENCY MEDICAL SERVICE AREA USES, APPROPRIATING FUNDS FOR THE ACQUISITION AND EXPANDING THE AUTHORIZED USES OF THE FUNDS

WHEREAS, Anchor Point Fire and Emergency Medical Service Area (APFEMSA) is planning for the development of a water tank fill site in the northern part of the service area; and

WHEREAS, the planning department has conducted an analysis of existing APFEMSA infrastructure locations and has identified optimal target locations for future infrastructure based on ISO 5-mile response criteria; and

WHEREAS, Goal 4.3 of the Kenai Peninsula Borough Comprehensive Plan is "to facilitate the provision of cost-effective fire protection and emergency medical services to residents and visitors throughout the borough"; and

WHEREAS, a parcel of land has been identified to support the water tank fill site in the northern part of the service area and the parcel furthers Goal 4.3 Objective 1 Action C for "long range planning to avoid unnecessary duplication of services, equipment, and facilities"; and

WHEREAS, a purchase agreement has been negotiated with the property owner; and

WHEREAS, initially the APFEMSA will only use a portion of the property needed for a water tank fill site and the remainder is intended to be held for future uses, subject to planning and appropriation and other approvals; and

WHEREAS, the property will be purchased jointly by the Land Trust Fund and APFEMSA, with APFEMSA providing funding of $8,267 and the Land Trust Fund providing funding of $53,733; and

WHEREAS, in FY2011, $50,000 was appropriated for installation of a water tank on the southern end of the Service Area to provide a water source; and

WHEREAS, expanding the scope to include the northern end of the Service Area and the purchase of land where the tank would be located would allow funds previously appropriated through ordinance 2011-19 to be used for the purchase of this property; and

WHEREAS, the Anchor Point Fire and Emergency Medical Service Area Board at its meeting of October 15, 2014 recommended approval by majority consent; and

WHEREAS, the KPB Planning Commission at its regularly scheduled meeting of July 13, 2015 recommended approval by unanimous consent;

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

SECTION 1. That the purchase of the following described real property is in the best interests of the borough:

The North 2/5 of Government Lot 1, Section 30, T3S, R14W, Seward Meridian, Alaska, lying East of the Sterling Highway, containing 7.49 acres more or less (KPB Assessor Parcel No. 159-200-02)

SECTION 2. That the terms and conditions substantially in the form of the Purchase Agreement accompanying this ordinance are hereby approved. The purchase price shall be $60,000 and closing costs shall not exceed $2,000.

SECTION 3. That this acquisition is for the purpose of supporting the development of a water tank fill site and other future fire and emergency service uses within the Anchor Point Fire and Emergency Medical Service Area and to enhance the borough's land holdings to meet future borough needs.

SECTION 4. That the proposed classification of this land is government.

SECTION 5. That the mayor is authorized to execute any and all documents necessary to purchase the real property described in Section 1 in accordance with the terms and conditions contained in this ordinance and the accompanying Purchase Agreement and consistent with applicable provisions of KPB Chapter 17.10.

SECTION 6. That the uses of these funds authorized in Ordinance 2011-19 are expanded to include purchasing this property.

SECTION 7. That $53,733 is appropriated from the Land Trust Fund, fund balance, to account 250.21210.00000.48610 for expenditures associated with this acquisition.

SECTION 8. That a prorated amount up to $8,267 is charged to the Anchor Point Fire and Emergency Medical Service Area Capital Project Fund, account number 444.51410.11TNK.48520 for expenditures associated with this acquisition.

SECTION 9. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 28TH DAY OF JULY, 2015.

Dale Bagley, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Cooper, Haggerty, Gilman, Johnson, McClure, Ogle, Welles, Wolf, Bagley
No:	None
Absent:	None

PURCHASE AGREEMENT

This Agreement is made by and between WILLIAM J. BASSETT whose address is 1108 Gilmore Court, Anchorage, AK 99503, (hereinafter referred to as "SELLER") and the KENAI PENINSULA BOROUGH, an Alaska municipal corporation, whose address is 144 North Binkley Street, Soldotna, Alaska 99669 (hereinafter referred to as "KPB").

WHEREAS, SELLER is the owner of that real property located in the Homer Recording District, Third Judicial District, State of Alaska, and more particularly described as follows:

> The north 2/5 of U.S. Government Lot One (1), Section 30, Township 3 South, Range 14 West, lying easterly of the Sterling Highway, in the Homer Recording District, State of Alaska (KPB Parcel ID No. 159-200-02)

WHEREAS, KPB has offered to buy subject to Assembly authorization and appropriation of funds, and SELLER is willing to sell the Property as evidenced by this Purchase Agreement;

NOW THEREFORE, in consideration of the promises herein contained, SELLER hereby agrees to sell to KPB, and KPB hereby agrees to buy from SELLER, the Property on the terms and conditions as set forth below:

1. PURCHASE PRICE

The purchase price of the Property is Sixty Thousand and NO cents ($60,000). The purchase price shall be paid by KPB at time of closing. The purchase of the Property and appropriation for the purchase are subject to borough assembly approval.

2. TITLE

Title shall be delivered at time of closing by Statutory Warranty Deed, which shall be issued to KPB. SELLER warrants and covenants that at the time of closing there shall be no liens or judgments recorded against SELLER in the same recording district in which the Property subject to this purchase agreement is situated. Title shall be clear of liens and encumbrances except title is subject to reservations, easements, rights-of-way, covenants, conditions and restrictions of record.

4. ESCROW AND CLOSING COSTS

In addition to the purchase price, KPB agrees to pay for closing costs in connection with this Agreement, including without limitation all escrow fees, title insurance charges, and recording fees up to $2,000. All costs will be paid in full at the time of closing.

5. CLOSING

Unless otherwise agreed in writing, closing will occur within 90 days of authorization by the Kenai Peninsula Borough Assembly and appropriation of funds. At closing, KPB will pay the balance of the purchase price. Both parties will execute all documents required to complete the Purchase Agreement and, if applicable, establish an escrow account.

6. POSSESSION

Possession shall be delivered to KPB at time of recording.

7. KENAI PENINSULA BOROUGH ASSEMBLY APPROVAL

Purchase of the Property by the Kenai Peninsula Borough is subject to authorization by the Kenai Peninsula Borough Assembly and appropriation of funds. If the Kenai Peninsula Borough Assembly fails to authorize the purchase of the subject land and appropriate funds, this agreement shall be terminated without penalty.

8. RISK OF LOSS

The risk of loss by destruction or damage to the property by fire or otherwise prior to closing of the sale is that of the Seller. If all or a substantial portion of the improvements on the property are destroyed or damaged prior to the closing KPB shall have the option to cancel this agreement with a prompt refund of the earnest money, or KPB may elect to continue with the purchase at a renegotiated price. The renegotiation of the purchase price shall occur within 45 days of the damage or destruction unless otherwise agreed in writing by the parties.

9. HAZARDOUS MATERIAL

SELLER covenants to the best of SELLER'S knowledge, that as the date of this agreement, except as specifically identified herein, the Property is free of all contamination from petroleum products or any hazardous substance or hazardous waste, as defined by applicable state or federal law, and there are no underground storage tanks or associated piping on the Property. SELLER agrees that no hazardous substances or wastes shall be located on or stored on the Property, or any adjacent property by seller, owner or contractors, nor shall any such substance be owned, stored, used, or disposed of on the Property or any adjacent property by SELLER, its agents, employees, contractors, or invitee's, prior to KPB'S ownership, possession, or control of the Property.

10. ENTIRE AGREEMENT

This Agreement and the documents referred to herein contain the entire agreement of the parties with respect to the subject matter hereof. Any changes, additions or deletions hereto must be made in writing and signed by both KPB and SELLER or their respective successors in interest. Provisions of this Agreement, unless inapplicable on their face, shall be covenants constituting terms and conditions of the sale, and shall continue in full force and effect until the purchase price is paid in full or this agreement is earlier terminated.

11 BREACH REMEDY

Prior to closing of the sale, in the event that KPB or SELLER fails to make any payment required, or fails to submit or execute any and all documents and papers necessary for closing and transfer of title within the time period specified in this agreement, the SELLER or KPB may terminate this Agreement.

12. MISCELLANEOUS

A. Time. Time is of the essence in performance of this Agreement.

B. Cancellation. This Agreement, while in good standing may be canceled in whole or in part, at any time, upon mutual written agreement by SELLER and the KPB mayor. This Purchase Agreement is subject to cancellation in whole or in part if improperly issued through error in procedure or with respect to material facts.

C. Notice. Any notice or demand, which under the terms of this Agreement or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address shown on the contract. However, either party may designate in writing such other address to which such notice of demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed received when deposited in a U.S. general or branch post office by the addressor.

D. Interpretation. This Agreement shall be deemed to have been jointly drafted by both parties. It shall be construed according to the fair intent of the language as a whole, not for or against any party. The interpretation and enforcement of this Agreement shall be governed by the laws of the State of Alaska. The titles of sections in this Agreement are not to be construed as limitations of definitions but are for identification purposes only.

E. Personal Property. The purchase includes all improvements and fixtures to the real property whether or not attached, unless otherwise stated in this agreement. All personal property shall remain the property of the SELLER, and shall be removed from the property by the SELLER prior to closing.

This Agreement has been executed by the parties on the day and year first above written.

KENAI PENINSULA BOROUGH:

_____
Mike Navarre, Mayor

Dated: _____

SELLER:

William J. Bassett
William J. Bassett

Dated: 03/18/15

ATTEST:

_____
Johni Blankenship,
Borough Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

_____
Holly B Montague,
Deputy Borough Attorney

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____day of September, 2015, by Mike Navarre, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for and on behalf of the corporation.

_____
Notary Public in and for Alaska
My commission expires: _____

NOTARY ACKNOWLEDGMENT

STATE OF VIRGINIA)
) ss
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 18 day of March, 2015, by William J. Bassett.

Notary Public
JENNIFER LEONCIO
State of Alaska
My Commission Expires Aug. 1, 2015

_____
Notary Public in and for Virginia
My commission expires: 8-1-15

Introduced by:	Johnson, Cox
Date:	12/13/22
Hearing:	01/17/23
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-44

AN ORDINANCE AMENDING KPB 4.10.060 AND 4.10.110 TO ELIMINATE THE REQUIREMENT THAT THE INFORMATIONAL ELECTION BROCHURE BE MAILED TO EVERY BOROUGH BOXHOLDER AND TO ELIMINATE THE REQUIREMENT OF THE BOROUGH CLERK TO SEEK AUTHORSHIP ADVOCATING APPROVAL AND REJECTION OF BALLOT PROPOSITIONS

WHEREAS, KPB 4.10.110(A) states the borough clerk shall prepare a brochure that shall contain "of a strictly factual nature" proposition information and "shall be mailed to every borough boxholder"; and

WHEREAS, mailing an informational brochure to every borough boxholder costs the borough approximately $30,000 for each regular election; and

WHEREAS, the high number of abandoned informational brochures found at local post offices indicates that this is not a resource that everyone finds helpful; and

WHEREAS, publishing the informational brochure online and providing for a mechanism for interested voters to request a hard copy appears to be a more targeted approach; and

WHEREAS, the more targeted approach would include adding information in the notice of election that notifies to the voters as to where and how voters can locate and/or request a copy of the informational brochure; and

WHEREAS, printed copies of the informational brochure will be available in the borough clerk's office, every city clerk's office throughout the borough and both borough annex offices in Homer and Seward; and

WHEREAS, in addition, the borough clerk's office will send a postcard to every registered voter that includes a link to the internet address where the voter pamphlet can be found online; and

WHEREAS, KPB 4.10.110(B) requires the clerk to offer authorship of statements by an individual or organization with a stated interest in advocating approval or rejection of propositions to be included in the borough election pamphlet; and

WHEREAS, the administration of this code provision has proven to be difficult and an unnecessary point of contention in the public process; and

WHEREAS, examples of such difficulties include identifying publicly recognized individuals or organizations with stated interests in the proposition; and

WHEREAS, nothing in the code prevents a proponent or opponent of a ballot proposition from submitting a statement in order to further their position on a ballot proposition; and

WHEREAS, there is concern that the use of public funds to advocate for or against any ballot proposition is not appropriate;

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

SECTION 1. Amend KPB 4.10.060(B) to read as follows:

4.10.060. Notice of election.

. . .

B. Each notice of election shall include:

1. The type of election, whether regular, special or runoff;
2. The date of the election;
3. The hours the polls will be open;
4. The offices to which candidates are to be elected;
5. The subjects of propositions to be voted upon;
6. Voter qualifications and instructions for registration;
7. Instructions for application for absentee voting;
8. Precinct polling places;
9. The KPB web address where the informational brochure will be published;
10. The locations printed copies of the informational brochure will be available;
11. The borough clerk's office contact information.

SECTION 2. Amend KPB 4.10.110(A) to read as follows:

4.10.110. Informational brochures for ballot propositions.

A. Fifteen days prior to each regular or special election the borough clerk shall prepare [AND MAIL TO EVERY BOROUGH BOXHOLDER] a brochure containing information approved by the assembly of a strictly factual nature pertaining to each proposition on the ballot, [EXCEPT AS PROVIDED BELOW IN THIS SECTION]. The informational brochure shall be published on the borough's election webpage and hard copies will be made available at the borough clerk's office, all city clerk offices and the

borough's annex offices in Seward and Homer. A voter may request a printed copy with the borough clerk's office.

SECTION 2. Repeal KPB 4.10.110(B) in its entirety.

SECTION 3. That this ordinance shall be effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH * DAY OF * 2023.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

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Kenai Peninsula Borough
Borough Assembly

MEMORANDUM

TO: Members, Kenai Peninsula Borough Assembly

THRU: Brent Johnson, Assembly President BJ
Tyson Cox, Assembly Vice President TRC

FROM: Michele Turner, Acting Borough Clerk

DATE: December 1, 2022

RE: Ordinance 2022-44, Amending KPB 4.10.060 and 4.10.110 to Eliminate the Requirement that the Informational Election Brochure be Mailed to Every Borough Boxholder and to Eliminate the Requirement of the Borough Clerk to Seek Authorship Advocating Approval and Rejection of Ballot Propositions (Johnson, Cox)

KPB 4.10.110(A) states the Borough Clerk shall prepare a brochure that contains "of a strictly factual nature" proposition information and "shall be mailed to every borough boxholder". Mailing an informational brochure to every borough boxholder costs the borough approximately $30,000 for each regular election.

The abandoned informational brochures found at local post offices indicate that this is not a resource that everyone finds helpful. The Borough Clerk's Office will post the entire brochure online and continue to publish the informational brochure. Publishing the informational brochure online and providing for a mechanism for interested voters to request a hard copy appears to be a more targeted approach. Printed copies will be available in the Borough Clerk's Office, every city clerk's office and both borough annex offices in Homer and Seward. In addition, the Borough Clerk's Office will send a postcard to every registered voter that includes a link to the internet address where the voter pamphlet can be found online.

KPB 4.10.110(B) requires the clerk to offer authorship of statements by an individual or organization with a stated interest in advocating approval or rejection of propositions to be included in the borough election pamphlet. The administration of this code provision has proven to be difficult and an unnecessary point of contention in the public process. Nothing in the code prevents a proponent or opponent of a ballot propositions from submitting a statement in order to further their stated position on a ballot proposition. This change would simply mean that the Borough Clerk does not need to actively seek out pro/con statements.

Your consideration is appreciated.

Introduced by:	Johnson, Cox
Date:	12/13/22
Hearing:	01/17/23
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-45

AN ORDINANCE AMENDING KPB 4.60.030 RELATING TO BALLOT TABULATOR TESTING BEFORE A RUN-OFF ELECTION

WHEREAS, KPB 4.10.050(C) provides a mayoral run-off election shall be held on the third Tuesday following the regular election or within two weeks after certification of the results of the regular election; and

WHEREAS, KPB 4.60.030(A) provides testing of equipment shall be tested publicly two times for each election; and

WHEREAS, the time allocated between a regular or special election and a run-off election is an extremely tight timeline; and

WHEREAS, it is not feasible to conduct tabulator testing two weeks after certification of a regular and/or special election;

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

SECTION 1. Amend KPB 4.60.030(A) to read as follows:

4.60.030. - Ballot tabulator tests and security.

A. The automatic tabulating equipment used for counting ballots (tabulator) at voting places shall be tested publicly two times for each election: before the election, and before the counting of ballots. After the counting of ballots a post-election audit shall be performed. <u>Testing automatic tabulating equipment for a run-off election shall be deemed appropriately tested before the regular or special election.</u>

SECTION 2. This ordinance shall be effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2022.

_____
Brent Johnson, Assembly President

ATTEST:

_____
Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

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Kenai Peninsula Borough
Borough Assembly

MEMORANDUM

TO: Members, Kenai Peninsula Borough Assembly

FROM: Brent Johnson, Assembly President BJ
Tyson Cox, Assembly Vice President TRC

DATE: December 1, 2022

RE: Ordinance 2022-45, Amending KPB 4.60.030 Relating to Ballot Tabulator Testing Before a Run-Off Election (Johnson, Cox)

In speaking with the Acting Borough Clerk, it has been brought to our attention that performing logic and accuracy testing after the special election on February 14, 2023 is not possible.

If required, the run-off election will be held two weeks after certification of the special election on March 7, 2023.

An election takes months to prepare, but due to the run-off election requirements as currently prescribed in code, preparation of a run-off election is condensed into a three week timeline. Therefore, we are requesting that the ballot tabulators be deemed appropriately tested before a regular or special election per KPB 4.60.030(B).

Your consideration is appreciated.

Introduced by:	Johnson, Ecklund
Date:	12/13/22
Hearing:	01/17/23
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-46

AN ORDINANCE AMENDING KPB 21.02.230 TO MODIFY THE BOUNDARIES OF THE NIKISKI ADVISORY PLANNING COMMISSION

WHEREAS, the assembly has previously created local advisory planning commissions ("APCs") within the Kenai Peninsula Borough (the "Borough") for the purpose of providing recommendations to the Borough Planning Commission on land use planning and public land management issues which may affect the existing and/or future character of their communities; and

WHEREAS, Goal 2 of the 2019 Borough Comprehensive Plan is to "Proactively manage growth to provide economic development opportunities on the Kenai Peninsula Borough while preserving what residents and visitors value about the area's natural features"; and

WHEREAS, Goal 2, Objective E states, "Actively work with interested communities outside of the incorporated cities to help develop locally-driven community plans and Strategy 4: Near-Term: Encourage unincorporated communities to engage with their established local Advisory Planning Commission ("APC") and encourage establishment of new APCs for communities not currently represented"; and

WHEREAS, at its regular meeting on September 20, 2022, the assembly enacted Ordinance 2022-41, which established the Nikiski APC; and

WHEREAS, since the Nikiski APC's establishment, there have been no applicants outside of the new boundaries proposed in this ordinance; and

WHEREAS, the Nikiski APC encompasses 3,500,000 acres, which is 13 times larger than the other existing APCs within the Borough; and

WHEREAS, the Tyonek Native Corporation and the Native village of Tyonek object to inclusion within the boundaries;

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

SECTION 1. That the Kenai Peninsula Borough Code of Ordinances is hereby amended by adding a new section to be numbered 21.02.230, which shall read as follows:

21.02.230. Nikiski Advisory Planning Commission.

An advisory planning commission is established for the community of the borough known as Nikiski with boundaries as follows:

[COMMENCING AT THE TOWNSHIP LINE BETWEEN T5N AND T6N R17W S.M., AND THE MEAN HIGH WATER LINE ON THE WESTERLY SHORE OF COOK INLET;

THENCE WESTERLY ALONG THE TOWNSHIP LINE BETWEEN T5N AND T6N TO THE WESTERLY BOUNDARY OF THE KENAI PENINSULA BOROUGH;

THENCE NORTHERLY AND EASTERLY ALONG THE BOUNDARY OF THE KENAI PENINSULA BOROUGH THROUGH COOK INLET TO THE PROTRACTED NORTHEAST CORNER OF T11N R5W IN TURNAGAIN ARM;

THENCE SOUTHEASTERLY TO THE INTERSECTION OF THE SOUTHERLY MEAN HIGH WATER LINE OF TURNAGAIN ARM AND THE 150TH MERIDIAN WEST OF GREENWICH WITHIN T10N R4W S.M.;

THENCE SOUTHERLY ALONG THE 150TH MERIDIAN TO THE TOWNSHIP LINE BETWEEN T8N AND T9N R4W;

THENCE WESTERLY ALONG THE TOWNSHIP LINE BETWEEN T8N AND T9N TO THE NORTHWEST CORNER OF T8N R9W S.M.;

THENCE SOUTHERLY ALONG THE RANGE LINE BETWEEN R9W AND R10W TO THE SOUTHEAST CORNER OF T6N R10W S.M.;

THENCE WESTERLY ALONG THE TOWNSHIP LINE BETWEEN T5N AND T6N TO THE SOUTHEAST CORNER OF SECTION 32 T6N R10W;

THENCE NORTHERLY ALONG THE SECTION LINE BETWEEN SECTIONS 32 AND 33 TO THE NORTHEAST CORNER OF SECTION 32;

THENCE WESTERLY ALONG THE SECTION LINE TO THE NORTHWEST CORNER OF SECTION 31 T6N R10W ON THE CORPORATE BOUNDARY OF THE CITY OF KENAI;
THENCE NORTHERLY AND WESTERLY ALONG THE CORPORATE BOUNDARY OF THE CITY OF KENAI TO THE INTERSECTION WITH THE MEAN LOW WATER LINE OF COOK INLET AND THE SECTION LINE BETWEEN SECTIONS 23 AND 26 T6N R12W S.M.;

THENCE WESTERLY ALONG THE SECTION LINE EXTENDED THREE MILES INTO COOK INLET;

THENCE SOUTHWESTERLY TO THE PROTRACTED SOUTHEAST CORNER OF T6N R14W IN COOK INLET;

[THENCE WESTERLY ALONG THE PROTRACTED TOWNSHIP LINE BETWEEN T5N AND T6N TO THE MEAN HIGH WATER LINE ON THE WESTERLY SHORE OF COOK INLET THE TRUE POINT OF BEGINNING.]

Beginning at the intersection of the southerly mean high water line of Turnagain Arm and the 150th meridian west of Greenwich within T10N R4W S.M.;

Thence southerly along the 150th meridian to the township line between T8N and T9N R4W;

Thence westerly along the township line between T8N and T9N to the northwest corner of T8N R9W S.M.;

Thence southerly along the range line between R9W and R10W to the southeast corner of T6N R10W S.M.;

Thence westerly along the township line between T5N and T6N to the southeast corner of Section 32 T6N R10W;

Thence northerly along the section line between Sections 32 and 33 to the northeast corner of Section 32;

Thence westerly along the section line to the northwest corner of Section 31 T6N R10W on the corporate boundary of the city of Kenai;

Thence northerly and westerly along the corporate boundary of the city of Kenai to the intersection with the mean high water line of Cook Inlet and the section line between Sections 23 and 26 T6N R12W S.M.;

Thence northerly and easterly along the mean high water line on the easterly shore of Cook Inlet, and easterly along the southerly mean high water line of Turnagain Arm, to the point of beginning.

SECTION 2. That this ordinance shall be effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * , 2023.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

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Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Members, Kenai Peninsula Borough Assembly

FROM: Brent Johnson, Assembly President BJ
Cindy Ecklund, Assembly Member CE

DATE: December 1, 2022

SUBJECT: Ordinance 2022-46, Amending KPB 21.02.230 to Modify the Boundaries of the Nikiski Advisory Planning Commission (Johnson, Ecklund)

Prior to the enactment of Ordinance 2022-41 the assembly discussed concerns regarding the size of the proposed Nikiski Advisory Planning Commission ("APC"). The Nikiski APC encompasses 3,500,000 acres, which is 13 times larger than the other existing APCs within the Borough.

The Tyonek Native Corporation and the Village of Tyonek object to inclusion within the boundaries. No applicant residing outside of the new boundaries proposed in this ordinance have applied to be on the Nikiski APC.

Your consideration is appreciated.

Introduced by:	Mayor
Date:	08/23/22
Hearing:	09/20/22
Action:	Enacted
Vote:	9 Yes, 0 No, 0 Absent

KENAI PENINSULA BOROUGH
ORDINANCE 2022-41

AN ORDINANCE AMENDING KPB CHAPTER 21.02 TO ESTABLISH AN ADVISORY PLANNING COMMISSION IN THE NIKISKI AREA

WHEREAS, the assembly has previously created local advisory planning commissions ("APCs") within the Kenai Peninsula Borough ("KPB") for the purpose of providing recommendations to the KPB Planning Commission on land use planning and public land management issues which may affect the existing and/or future character of their communities; and

WHEREAS, Goal 2 of the 2019 KPB Comprehensive Plan is to "Proactively manage growth to provide economic development opportunities on the Kenai Peninsula Borough while preserving what residents and visitors value about the area's natural features"; and

WHEREAS, Goal 2, Objective E states, "Actively work with interested communities outside of the incorporated cities to help develop locally-driven community plans and Strategy 4: Near-Term: Encourage unincorporated communities to engage with their established local Advisory Planning Commission ("APC") and encourage establishment of new APCs for communities not currently represented"; and

WHEREAS, a petition, signed by over 20 qualified voters who are residents within the proposed boundaries of the Nikiski APC, has been received by the KPB Clerk requesting the formation of an APC in the Nikiski community; and

WHEREAS, on July 19, 2022, the KPB Planning Director held a community meeting to discuss the proposed boundaries of the Nikiski APC; and

WHEREAS, the petitioned area of interest is 3,500,000 acres as the proposed boundaries of the Nikiski APC and the KPB Planning Department has indicated that additional community input is needed for the effective management of these lands; and

WHEREAS, at its meeting held on August 22, 2022, the KPB Planning Commission recommended approval as amended;

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

SECTION 1. That the Kenai Peninsula Borough Code of Ordinances is hereby amended by adding a new section to be numbered 21.02.230, which shall read as follows:

21.02.230. Nikiski Advisory Planning Commission.

An advisory planning commission is established for the community of the borough known as Nikiski with boundaries as follows:

Commencing at the township line between T5N and T6N R17W S.M., and the mean high water line on the westerly shore of Cook Inlet;

Thence westerly along the township line between T5N and T6N to the westerly boundary of the Kenai Peninsula Borough;

Thence northerly and easterly along the boundary of the Kenai Peninsula Borough through Cook Inlet to the protracted northeast corner of T11N R5W in Turnagain Arm;

Thence southeasterly to the intersection of the southerly mean high water line of Turnagain Arm and the 150th meridian west of Greenwich within T10N R4W S.M.;

Thence southerly along the 150th meridian to the township line between T8N and T9N R4W;

Thence westerly along the township line between T8N and T9N to the northwest corner of T8N R9W S.M.;

Thence southerly along the range line between R9W and R10W to the southeast corner of T6N R10W S.M.;

Thence westerly along the township line between T5N and T6N to the southeast corner of Section 32 T6N R10W;

Thence northerly along the section line between Sections 32 and 33 to the northeast corner of Section 32;

Thence westerly along the section line to the northwest corner of Section 31 T6N R10W on the corporate boundary of the city of Kenai;

Thence northerly and westerly along the corporate boundary of the city of Kenai to the intersection with the mean low water line of Cook Inlet and the section line between Sections 23 and 26 T6N R12W S.M.;

Thence westerly along the section line extended three miles into Cook Inlet;

Thence southwesterly to the protracted southeast corner of T6N R14W in Cook Inlet;

Thence westerly along the protracted township line between T5N and T6N to the mean high water line on the westerly shore of Cook Inlet the true point of beginning.

SECTION 2. That this ordinance shall be effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF SEPTEMBER, 2022.

Brent Johnson

Brent Johnson, Assembly President

ATTEST:

John Blankenship

Johni Blankenship, MMC, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Yes:	Bjorkman, Chesley, Cox, Derkevorkian, Ecklund, Elam, Hibbert, Tupper, Johnson
No:	None
Absent:	None

Introduced by:	Mayor
Date:	12/13/22
Hearing:	01/17/23
Action:	
Vote:	

KENAI PENINSULA BOROUGH
ORDINANCE 2022-47

AN ORDINANCE AMENDING KPB 5.04.095(B) TO REMOVE THE RIVER CENTER AS A LISTED GENERAL FUND DEPARTMENT AND KPB 5.20.030 TO REMOVE THE RIVER CENTER FUND FROM THE SPECIAL REVENUE FUND LIST

WHEREAS, Chapter 5.04, Budget Procedure and Fiscal Year, Kenai Peninsula Borough ("Borough") Code of Ordinances, indicates that the Donald E. Gilman River Center ("River Center") is a distinct department general fund department; and

WHEREAS, the River Center is organized inside the Planning Department; operating under a special revenue fund since 2006; and

WHEREAS, in 2012, as a result of GASB 54 required fund type changes, the River Center was re-classified as a department of the general fund; and

WHEREAS, per KPB 5.20.030 the "Kenai River Center Fund" is included within the list of Borough special revenue funds; and

WHEREAS, the River Center has evolved away from initial construction and startup that was largely funded by federal sources and now encompasses Planning Department and 911/Dispatch staff not associated with the River Center's special fund; and

WHEREAS, neither the day-to-day operations nor the financial accounting systems benefit from maintaining separate fund accounts for the Planning Department and River Center special fund; and

WHEREAS, keeping the funds separate reduces flexibility and efficiency within the Planning Department; and

WHEREAS, this ordinance reclassifies the River Center as a division of the Planning Department, which will increase/improve flexibility and efficiency for the Planning Department as a whole;

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

SECTION 1. That KPB 5.04.095(B) is hereby amended to read as follows:

5.04.095. Level of budgetary control.

B. That departments for the general fund are defined as assembly, clerk (to include elections and record management), mayor, purchasing and contracting, human resources (to include print shop, and custodial), information technology, office of emergency management, legal, finance, assessing, planning, [RIVER CENTER], capital projects, and non-departmental.

SECTION 2. That KPB 5.20.030 is hereby amended to read as follows:

5.20.030. - Special revenue funds.

Special revenue funds account for the proceeds from specific revenue sources (other than expendable trust or major capital projects) that are legally restricted to expenditures for specific purposes. These funds consist of the following:

Nikiski Fire Service Area Fund
Bear Creek Fire Service Area Fund
Anchor Point Fire and Emergency Medical Service Area Fund
Central Emergency Service Area Fund
Kachemak Emergency Service Area Fund
Lowell Point Fire Service Area
Central Peninsula Emergency Medical Service Area Fund
North Peninsula Recreation Service Area Fund
Road Service Area Fund
Road Improvement Assessment District Engineer's Estimate Fund
RIAD Match Fund
School Fund
Post-Secondary Education Fund
Land Trust Fund
Land Trust Investment Fund
[KENAI RIVER CENTER FUND**]**
Coastal Zone Management Fund
Seward Bear Creek Flood Service Area
Disaster Relief Fund
Environmental Protection Programs Fund
Underground Storage Tank Removal and Upgrade Fund
Pass-Through Grants Fund
Miscellaneous Grants Fund
Nikiski Senior Citizen Service Area Fund
Solid Waste Fund
Local Emergency Planning Committee Fund
Central Kenai Peninsula Hospital Service Area Fund
South Peninsula Hospital Service Area Fund

SECTION 3. That this ordinance shall become effective on July 1, 2023.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2023.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

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Kenai Peninsula Borough
Planning Department

MEMORANDUM

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

THRU: Mike Navarre, Mayor MN
Brandi Harbaugh, Finance Director BH

FROM: Robert Ruffner, Planning Director RR

DATE: December 1, 2022

SUBJECT: Ordinance 2022-47, Amending KPB 5.04.095(B) to Remove the River Center as a Listed General Fund Department and KPB 5.20.030 to Remove the River Center Fund from the Special Revenue Fund List (Mayor)

Chapter 5.20 of the Kenai Peninsula Borough (the "Borough") Code of Ordinances contains a list of Borough funds and a definition of each fund. Special fund accounts have been established to track unique funds that need to be kept separate from the general fund for a variety of reasons. The Kenai River Center Fund was established in 2006 in large part due to federal grant funds that assisted in construction and earlier operations of the Donald E. Gilman River Center (the "River Center"). Tracking these grant funds and activities separate from the general fund was necessary at that time. Grants of this magnitude are no longer coming to the Borough, and in 2012 as a result of requirements outlined by GASB 54 "Fund Type Definitions," the River Center was reclassified as a department of the general fund.

Further, the River Center building now houses Planning Department staff who are not exclusively associated with the Kenai River Center Fund, and it has been upgraded to accommodate additional staff for the 911 call center. Keeping the River Center funds and Planning Department funds separate increases the internal administrative workload when moving funds between the traditional River Center activities and the Planning Department, even though the River Center is organized under the Planning Department. The Ordinance will reclassify River Center as a division of the Planning Department, which will improve flexibility and efficiency of the Planning Department as a whole. The administration is bringing this forward now in anticipation of staff preparing the FY 24 budget.

Your consideration is appreciated.

Planning Department
144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

RECEIVED
OCT 21 2022
KPB PLANNING DEPT.

PETITION TO VACATE SECTION LINE EASEMENT

PUBLIC HEARING REQUIRED

Upon receipt of complete application with fees and all required attachments, a public hearing before the Planning Commission will be scheduled. The petition with all required information and attachments must be in the Planning Department at least 30 days prior to the preferred hearing date. By State Statute and Borough Code, the public hearing must be scheduled within 60 days of receipt of complete application.

The Kenai Peninsula Borough is advisory to the State of Alaska Department of Natural Resources regarding Section Line Easement Vacations. The State of Alaska has the final authority regarding vacation of Section Line Easements.

Initially, a sketch may be included with the vacation petition for review by the Planning Commission. After the Planning Commission takes action on the vacation, a Section Line Easement Vacation Plat must be prepared by a licensed land surveyor. The plat will be processed in accordance with KPB 20.10.080. Platting authority is vested in the Planning Director.

SUBMITTAL REQUIREMENTS

A Section Line Easement Vacation (SLEV) application will be scheduled for the next available planning commission meeting after a complete application has been received.

- ☑ $500 non-refundable fee to help defray costs of advertising public hearing. Plat fees will be in addition to the vacation fees.
- ☐ City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
- ☑ Is the section line easement in use by any utility company? If so, which company NO
- ☑ Width of easement proposed to be vacated must be shown on the sketch.
- ☑ 3 copies of the plat or map showing the section line easement to be vacated. Must not exceed 11 x 17 inches in size. Proposed alternative public access to be shown and labeled on the sketch
- ☑ REASON FOR VACATING The petitioner must attach a statement with reasonable justification for the vacation of the section line easement.

Has the section line easement been fully or partially constructed?	☐ Yes	☑ No
Is the section line easement used by vehicles / pedestrians / other?	☐ Yes	☑ No
Is alternative right-of-way being provided?	☑ Yes	☐ No

LEGAL DESCRIPTION OF AREA TO BE VACATED:

The east 33 feet of Tract H, Questa Woods Sub, Southern	
Section, township, range Section 23, T1N, R1W	
City (if applicable) Seward	General area Camelot/Questa Woods

The petition must be signed by owners of a majority of the land affected by the section line easement proposed to be vacated. Each petitioner must include address and legal description of his/her property. Attach additional signature sheets if needed.

Submitted by: ☑ Petitioner ☑ Representative

Name (printed): Ken Lana	Signature
e-mail: ken@lana survey.com	Address: 11500 Daryl Ave,
Owner of: Representative	

Petitioners:

Name (printed): James Daniel Unrein	Signature
e-mail: junrein@hotmail.com	Address: P.O. Box 3474 Seward,
Owner of: Tract H	
Name (printed): Leann M. Unrein	Signature
e-mail: lLeann.michelle@hotmail.cc	Address: 16124 Stineburg Drive Eagle River, AK 99577
Owner of: Tract H	
Name (printed):	Signature
e-mail:	Address:
Owner of:	

FOR OFFICE USE ONLY

RECEIVED BY _____ DATE SUBMITTED _____ KPB FILE # _____

Planning Department
144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

SECTION LINE EASEMENT VACATION - Procedures by Petitioner(s)

Some section line easements are unimproved and not used. Under certain circumstances, some of these section line easements may be vacated. Section line easement vacation petitions must comply with the requirements of the following:

1) KPB 20.70.040 (petition required).
A. A platted right-of-way or platted public area may not be vacated, except upon petition by resolution of the governing body from a municipality in which the property is located or by the owners of the majority of land fronting or abutting the right-of-way or public area to be vacated. The petition shall be filed with the planning commission.

2) KPB 20.70.050 (petition information required).
A. A recorded plat may not be altered or replatted except by the platting authority on petition of the state, the borough, a public utility, or the owners of the majority of the land affected by the alteration or replat. A platted street may not be vacated, except on petition of the state, the borough, a public utility, or the owners of a majority of the land fronting the part of the street sought to be vacated. The petition shall be filed with the platting authority and shall be accompanied by a copy of the existing plat showing the proposed alteration or replat.

B. Persons listed on the borough assessor's tax roll shall be deemed the legal owners for purposes of the vacation petition. The petition shall include a statement containing the reasons in support of the vacation and be accompanied by a minimum of three copies of a sketch clearly indicating the proposed vacation, submitted to the planning department at least 30 calendar days in advance of the meeting at which it will be considered. Additional copies may be required as needed. In cases where encroachments on public rights-of-way are in question, an as-built survey, sealed by a surveyor, is required showing the improvements, existing travelways, amount of encroachment, and any other submittal as requested by the planning commission. The burden of proof shall lie with the petitioner to support the vacation.

C. In areas where right-of-way is being vacated due to excessive topographic features, a contour map or centerline profile and/or right-of-way cross sectional view may be required by the commission to substantiate the unusable right-of-way and show alternate and dedicated routes to insure ingress and egress to adjacent lands.

D. If the proposed vacation lies within the boundaries of an incorporated city, comments from the city advisory planning commission must be submitted with the petition.

3) KPB 20.70.060 (fee required)
The fee established by the current Kenai Peninsula Borough Schedule of Rates, Charges and Fees shall accompany the filing of the vacation petition.

4) 20.70.070. Public hearing required.
Upon receipt of the complete vacation application including petition, sketches, and fee, the planning commission shall schedule a public hearing on the petition to be conducted within 60 calendar days after filing.

Public hearing and notice must comply with the requirements of KPB 20.70.070, 20.70.080, 20.70.100, 20.70.110 and 20.70.120.

5) 20.70.080
C. A notice shall be sent by regular mail to each property owner as shown on the Kenai Peninsula Borough tax rolls within a 300-foot radius from the section line easement proposed for vacation.

Notices will be sent by regular mail. Publication on the planning commission agenda, advertised once in local papers, posted in public areas and on the borough website prior to the meeting will satisfy the publishing requirements.

6) 20.70.100. Hearing board—Authority and determination.
The planning commission shall conduct the public hearing, consider the vacation petition, and make its decision on the merits of the proposal. The planning director shall forward a copy of the minutes pertaining to the action to the assembly or appropriate city council within five calendar days following their decision.

7) 20.70.110. Vacation consent—City council or assembly.
A vacation of a city street, public right-of-way, public area, or public easement located within an incorporated city may not be approved without the consent of the city council. A vacation of a street right-of-way, public area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly. The assembly or council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the city or borough shall be considered to have given consent to the vacation.

8) 20.70.120. Action after denial of vacation petition.
A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.

B. Upon denial by the planning commission, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.

The petitioner is responsible for all submittals required by the State of Alaska Department of Natural Resources (DNR) in compliance with their procedures. The petition must be reviewed and approved by the planning commission but final authority for approval and platting of the vacation rests with DNR. The petitioner is responsible for coordination with DNR and submittals to DNR.

Kenai Peninsula Borough
Planning Department

MEMORANDUM

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

FROM: Robert Ruffner, Planning Director

DATE: November 28, 2022

RE: Public Access Easement Vacation Created by Questa Wood subdivision southern Addition Plat SW 98-0. KPB File 2022-159V

In accordance with AS 29.40.140, no vacation of a Borough right-of-way and/or easement may be made without the consent of the Borough Assembly.

During their regularly scheduled meeting of November 14, 2022 the Kenai Peninsula Borough Planning Commission granted approval of the above proposed vacation by unanimous vote based on the means of evaluating public necessity established by KPB 20.65 (10-Yes, 2-Absent, 2-Vacant). This petition is being sent to you for your consideration and action.

A draft copy of the unapproved minutes of the pertinent portion of the meeting and other related materials are attached.

November 14, 2022 Draft PC Minutes
November 14, 2022 Meeting Packet Materials
Petition Form

AGENDA ITEM E. NEW BUSINESS

Vice Chair Martin asked Ms. Shirnberg to read into the record the procedures for public hearings.

ITEM E1 – RIGHT OF WAY VACATION
PUBLIC ACCESS EASEMENT CREATED BY
QUESTA WOOD SUBDIVISION SOUTHERN ADDITION PLAT SW 98-01

KPB File No.	2022-159V
Planning Commission Meeting:	November 14, 2022
Applicant / Owner:	James and Leann Unrein of Seward, Alaska
Surveyor:	Ken Lang / Lang & Associates, Inc.
General Location:	Roundtable Drive, Salmon Creek Road, Bear Creek
Legal Description:	Public Access Easement shown as a section line easement along Tract H, Questa Woods Subdivision Southern Addition, Plat SW 98-01

Staff report given by Planning Director Robert Ruffner.

Vice Chair Martin opened the item for public comment.

Travis Wilson, Land & Associates; 11500 Daryl Ave., Anchorage, AK 99515: Mr. Wilson was the surveyor on this project and made himself available for questions.

Seeing and hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Slaughter moved, seconded by Commissioner Horton to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

Hearing no objection or further discussion, the motion was carried by the following vote:
MOTION PASSED BY UNANIMOUS VOTE:

Yes - 10	Gillham, Horton, Hooper, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
Absent - 2	Brantley, Fikes

ITEM E2 - RIGHT OF WAY VACATION
VACATE THE EAST-WEST PORTION OF BIG D ROAD AND A SMALL PORTION OF CINNAMON STREET AND ASSOCIATED UTILITY EASEMENTS

KPB File No.	2022-155V
Planning Commission Meeting:	November 14, 2022
Applicant / Owner:	Gene, Linda, and George Friendshuh all of Soldotna, Alaska
Surveyor:	James Hall / McLane Consulting Inc.
General Location:	Derks Lake Road, Ridgeway
Legal Description:	Big D Road, Derk's Lake Subdivision, Plat KN 74-9, Section 13, Township 5 North, Range 10 West. Cinnamon Street, Tatum Subdivision, Plat KN 2021-15 and Denise Lake Estates Part Two, Plat KN 94-27, Sections 14 and 23, Township 5 North, Range 10 West.

Staff report given by Planning Director Robert Ruffner. Director Ruffner noted that a request from the surveyor had been received asking to postpone action on this item.

Vice Chair Martin opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

UNAPPROVED

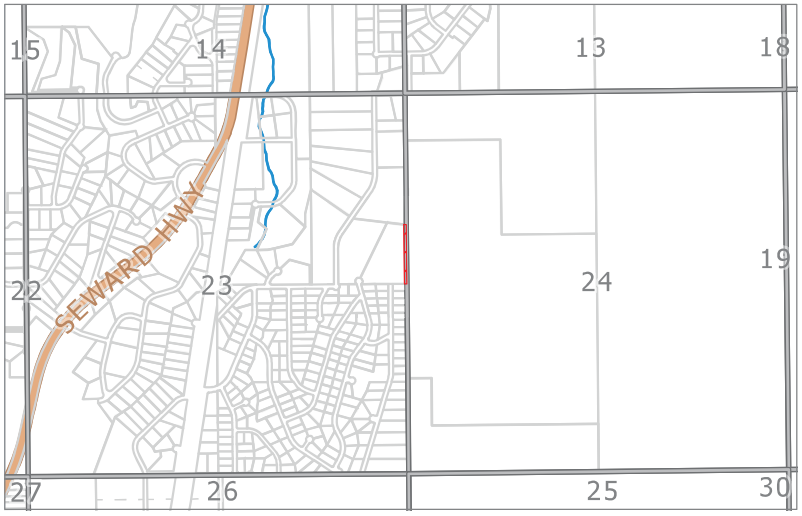
E. NEW BUSINESS

1. Public Access Easement Vacation; KPB File 2022-159V
Request: Vacates a 33’ x 820’ public access easement adjacent to Tract H of Questa Woods Subdivision Southern Addition, Plat SW 98-01

Kenai Peninsula Borough Planning Department

Vicinity Map





KPB File 2022-159V

T 01N R 01W SEC 23

Bear Creek

10/24/2022

0 300 600 Feet

The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this

Kenai Peninsula Borough Planning Department

Aerial View

KPB 2022-159V
10/24/2022

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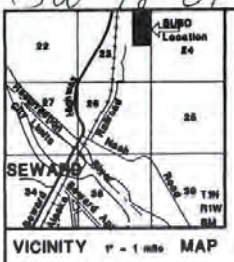
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this n

SW 98-01



QUESTA WOODS SUBDIVISION, SOUTHERN ADDITION

A subdivision of Parcel 1, KPB Plat Waiver 96-7.
Located in the NE1/4 Section 23, T1N R1W, SM, Alaska.
Seward Recording District KPB File 96-235

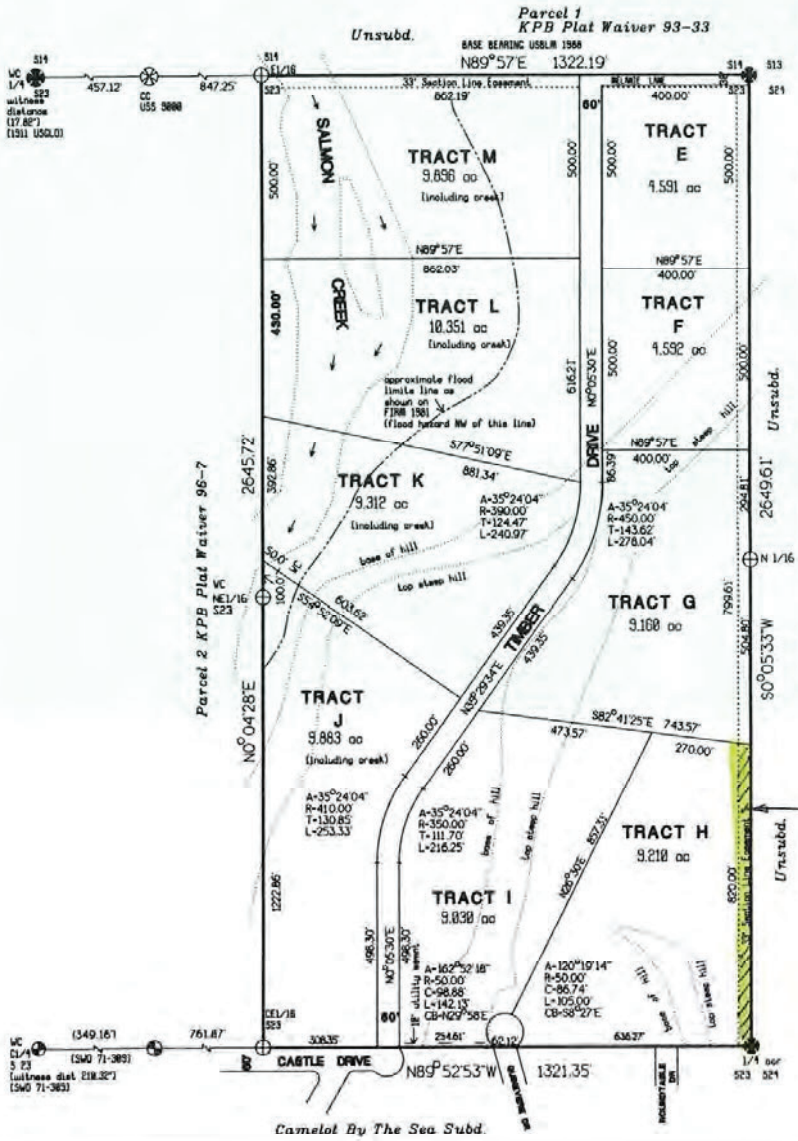
Prepared for
J.B. & Questa Woods
P.O. Box 1733
Seward, Ak 99664

Prepared by
Johnson Surveying
Box 27
Clam Gulch, Ak 99568

SCALE 1" = 200' **AREA = 80.340 acres** **20 Oct,1996**

98-01
RECORDED - FILED 20.00
SEWARD RECORDING DISTRICT
DATE 1/15 1998
TIME 10:30 AM
Requested by
Johnson Surveying
Box 27
Clam Gulch,Ak-99568

LEGEND
- 1911 USGLO brass cap monument, found.
- 1985 USBLM brass cap monument, found.
- 1/2"x 24" rebar with 1" plastic cap, set.
- ( ) - Record information from source indicated.
- 1971 2.5" brass cap monument, 1817-E, found.
- 1971 brass cap monument, 1817-E, record SWD 71-389.
- 2.5"x 30" aluminum monument, set.



PLAT APPROVAL
This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of 16 December,1996.

KENAI PENINSULA BOROUGH

BY: Max J Best 1/10/98
Authorized Official Date

NOTES
1. A building setback of 20' from all street R.O.W.s is required unless a lesser standard is approved by a resolution of the appropriate planning commission. Front 10' of building setback is also a utility easement as is the entire easement within 5' of side lot lines.
2. No permanent structure shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.
3. Lots within this subdivision may be located within a designated flood hazards area; if such is the case, development must comply with Title 21, Chapter 05 of the Kenai Peninsula Borough Code of Ordinances. A survey may be to determine the elevation of the property may be required prior to construction.
4. No access to State maintained ROWs permitted unless approved by State of Alaska Dept. of Transportation.

WASTEWATER DISPOSAL
These lots are at least 200,000 square feet or nominal 5 acres in size and conditions may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Dept. of Environmental Conservation.

OWNERSHIP CERTIFICATE
I hereby certify that I am the owner of the real property shown and described hereon; and that I hereby adopt this plan of subdivision, and by my free consent dedicate all rights-of-way and grant all easements to the use shown.

J.B. Woods
J.B.Woods P.O. Box 1733 Seward, AK99664
President, Ameri-Can Construction, Ltd.
A Nevada Corporation.

NOTARY'S ACKNOWLEDGEMENT
For: J.B. Woods
Subscribed and sworn to before me this 19
day of May .1997.
Notary Public for Alaska
My commission expires ___

Lang & Associates, Inc.
11500 Daryl Avenue
Anchorage, Alaska 99515

KPB 2022-159V

AGENDA ITEM E. NEW BUSINESS

ITEM 1 - RIGHT OF WAY VACATION
PUBLIC ACCESS EASEMENT CREATED BY
QUESTA WOOD SUBDIVISION SOUTHERN ADDITION PLAT SW 98-01

KPB File No.	2022-159V
Planning Commission Meeting:	November 14, 2022
Applicant / Owner:	James and Leann Unrein of Seward, Alaska
Surveyor:	Ken Lang / Lang & Associates, Inc.
General Location:	Roundtable Drive, Salmon Creek Road, Bear Creek
Legal Description:	Public Access Easement shown as a section line easement along Tract H, Questa Woods Subdivision Southern Addition, Plat SW 98-01

STAFF REPORT

Specific Request / Purpose as stated in the petition: The following is our justification for the vacation of the 33' section line easement on this tract:

1. The easement does not appear in the 1923 patent for the original parcel and seems to have been created and dedicated on Plat 98-01, Questa Woods Subdivision, Southern Addition.
2. The easement has never been used. There is no road, trail or utilities within it.
3. The easement does not appear on the plat of Camelot by the Sea Subdivision to the south of this tract.
4. There is alternate North-South access available over Timber Drive to the west of Tract H.
5. The undeveloped parcel to the east is owned by Alaska Mental Health Trust Authority and has access from Melanie Lane ant the north end of that parcel.

Notification: Public notice appeared in the November 2, 2022 issue of the Seward Journal as a separate ad. The public hearing notice was published in the November 9, 2022 issue of the Seward Journal as part of the Commission's tentative agenda.

The public notice was posted on the Planning Commission bulletin board at the Kenai Peninsula Borough George A. Navarre Administration building. Additional notices were mailed to the following with the request to be posted for public viewing.

Library of Seward
Post Office of Seward

Twenty certified mailings were sent to owners of property within 300 feet of the proposed vacation. Thirteen receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to sixteen owners within 600 feet of the proposed vacation.

Thirty public hearing notices were emailed to agencies and interested parties as shown below;

State of Alaska Dept. of Fish and Game
State of Alaska DNR
State of Alaska DOT
State of Alaska DNR Forestry
Bear Creek Emergency Services
Kenai Peninsula Borough Office
Alaska Mental Health Trust Authority
Seward Bear Creek Fire Service Area
Alaska Communication Systems (ACS)
ENSTAR Natural Gas
General Communications Inc, (GCI)
Homer Electric Association (HEA)
Chugach Electric
Seward Utilities
TelAlaska

Legal Access (existing and proposed): A section line easement was indicated on the parent plat along the eastern boundary. Reviewing the information it appears that a section line easement was not in place but by showing it on the plat a public access easement was created. This was not dedicated as right-of-way so all lots in the area front along other dedicated rights-of-way.

Tract H, the lot requesting the vacation, has dedicated access from a cul-de-sac bulb at the north end of Guinevere Drive and from Roundtable Drive. All subdivided lots in the area have dedicated access.

The 195 acre parcel to the east is owned by Alaska Mental Health Trust Authority. The lot does not front on any dedicated rights-of-way. While the access easement could provide access there is no current connection to the easement in this location to allow the large acreage tract to be accessed and all access would need to come from the north. To the north of the parcel is an 80 acre parcel in private ownership. To the north of that parcel is Melanie Lane and Knotwood Street. In addition to the 33 foot public access easement created by plat, there is a 33 foot section line easement within the 80 acre parcel that connects to the 195 acre parcel. The 195 acre parcel appears to be subject to a 50 foot section line easement. The section line easements from the north provide the access needed for the Alaska Mental Health Trust Authority lands.

The block is not compliant due to large acreage tracts in the area and many cul-de-sac or dead end rights-of-way. The removal of the public access easement will not improve or worsen the block compliance as a section line easement will remain to the east.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	No Response

Site Investigation: Tract H does contain some improvements on the property that appear to be accessed from Guinevere Drive. Per an as built provided for the plat, the house is not within the easement but a fuel tank is within the 33 foot easement.

There are no low wet areas within the tract or vacation area. There are no low wet areas that affect other access areas that would result in needing this easement for access.

There are some areas of steep slopes within Tract H. Within the area proposed to be vacated there does not appear to contain steep slopes but there are some located to the south of the easement and in some areas to the north.

KPB River Center review	Floodplain: Located in a Non-Regulatory X - Zone, minimal flood risk Habitat Protection: Is NOT within HPD. No comments State Parks: No Comments
Alaska Fish and Game	No objections

Staff Analysis: Questa Woods Subdivision Southern Addition, Plat SW 98-01, subdivided a parcel that was created by a plat waiver. When the plat was done a 33 foot section line easement was shown within Section 23 along the eastern section line. This depiction is along all the tracts created by that plat and the owners now wish to vacate the easement along Tract H.

KPB Staff research shows that the date of entry by the original owner was filed on August 1, 1922 and federal patent was issues to him on May 9, 1929. The patent does not contain any patent easements. In determining section line easements within Alaska there are several ways to determine if a section line easement exists and what the width would be. One is if the date of entry predated survey plat approval then there is no easement. It appears the

first Master Title Plat for this area was filed in 1963. Additionally, April 6, 1923 is the date legislation for section line easements was enabled and if the date of entry is prior to that date there is no easement.

While a section line easement does not exist in the area being discussed, the depiction on the plat created a public access easement with the same qualities as a section line easement. This would allow for public access, installation of roads and utilities. This would not be a state easement but we have notified various state officials for their comment. If there is any question about a section line easement, the owner/surveyor should contact Alaska State DNR for a determination. If it is determined one is present the owners may work with the state on a section line easement vacation otherwise a subdivision plat or planning commission resolution may vacate the easement.

As other lots have access from dedicated rights-of-way or other section line easements it does not appear the public access easement is required. It is not constructed and to the south it does not connect to any other easements or dedications. To the south is the Camelot by the Sea Subdivision which is not subject to a section line easement and one was not shown. The lots to the south are small in size and getting a dedication to connect to this easement will not be possible.

If it is found that the easement is in use by utility providers, staff would recommend the owners work with the utility companies to grant easements over existing services.

20.65.050 – Action on vacation application

D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:

1. The right-of-way or public easement to be vacated is being used;
   Staff comments: It is not in use

2. A road is impossible or impractical to construct, and alternative access has been provided;
   Staff comments: Lots have additional access and the existing easement cannot continue south of the proposed vacation area.

3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
   Staff comments: Large acreage lots to the east will need to be developed but are large enough to provide their own access and easements.

4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;
   Staff comments: Does not provide access to public lands.

5 The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
   Staff comments: All subdivided lands have dedicated access in the area. Large acreage tracts have additional access.

6. Other public access, other than general road use, exist or are feasible for the right-of-way;
   Staff comments:

7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests,

and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way.
Staff comments: Any needed utility easements should be granted

8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.
Staff comments: This easement was incorrectly shown and labeled and thus created the public access easement by plat.

A KPB Planning Commission decision denying a vacation application is final. A KPB Planning Commission decision to approve the vacation application is subject to consent or veto by the KPB Assembly, or City Council if located within City boundaries. The KPB Assembly, or City Council must hear the vacation within thirty days of the Planning Commission decision.

The Assembly will hear the vacation at their scheduled December 13, 2022 meeting.

If approved, Questa Woods Subdivision Unrein Addition, KPB File 2022-159 can finalize the proposed right of way vacations. The Plat Committee is scheduled to review the preliminary plat on November 14, 2022. A Planning Commission Resolution may also be adopted if the owners do not feel they will finalize the plat within one year of consent.

KPB department / agency review:

Planner	Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat. Material Site Comments: There are not any material site issues with this proposed plat.
Code Compliance	Reviewer: Ogren, Eric Comments: No comments
Addressing	Reviewer: Haws, Derek Affected Addresses: 12512 ROUNDTABLE DR Existing Street Names are Correct: No List of Correct Street Names: ROUNDTABLE DR GUINEVERE DR MELANIE LN Existing Street Name Corrections Needed: TIMBER DR should be MADERA LN CASTLE DR should be WIZARD AVE All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied: Comments: 12512 ROUNDTABLE DR will remain on tract H.
Assessing	Reviewer: Windsor, Heather Comments: No comment

Utility provider review:

HEA	Not within HEA service area. No other comments.
ENSTAR	No comments or recommendations
ACS	No objections
GCI	Approved as shown
SEWARD ELECTRIC	
CHUGACH ELECTRIC	No comment. Not within our service area.
TELALASKA	

RECOMMENDATION:

Based on consideration of the merits as per KPB 20.65.050(D) as outlined by Staff comments, Staff recommends APPROVAL as petitioned, subject to:

1. Consent by KPB Assembly.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by the utility providers.
4. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent (KPB 20.70.130) or request a resolution to be recorded within one year of vacation consent.

KPB 20.65.050 – Action on vacation application

H. A planning commission decision to approve a vacation is not effective without the consent of the city council, if the vacated area to be vacated is within a city, or by the assembly in all other cases. The council or assembly shall have 30 days from the date of the planning commission approval to either consent to or veto the vacation. Notice of veto of the vacation shall be immediately given to the planning commission. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation. This provision does not apply to alterations of utility easements under KPB 20.65.070 which do not require the consent of the assembly or city council unless city code specifically provides otherwise.

I. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, where applicable, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent.

J. A planning commission decision denying a vacation application is final. No reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.

K. An appeal of the planning commission, city council or assembly vacation action under this chapter must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.

The 2019 Kenai Peninsula Borough Comprehensive Plan adopted November, 2019 by Ordinance No. 2019-25. The relevant objectives are listed.

Goal 3. Preserve and improve quality of life on the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services.

- *Focus Area: Energy and Utilities*
    - *Objective A - Encourage coordination or residential, commercial, and industrial development with extension of utilities and other infrastructure.*
        - *Strategy 1. Near – Term: Maintain existing easements (especially section line easements) in addition to establishing adequate utility rights of way or easements to serve existing and future utility needs.*
        - *Strategy 2. Near – Term: Maintain regular contact with utility operators to coordinate and review utility easement requests that are part of subdivision plat approval.*
        - *Strategy 3. Near – Term: Identify potential utility routes on Borough lands.*
- *Housing*
    - *Objective D. Encourage efficient use of land, infrastructure and services outside incorporated cities by prioritizing future growth in the most suitable areas.*
        - *Strategy 1. Near – Term: Collaborate with the AK Department of Transportation, incorporated cities within the borough, utility providers, other agencies overseeing local services, and existing communities located adjacent to the undeveloped areas that are appropriate for future growth, to align plans for future expansion of services to serve future residential development and manage growth.*

Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough

- *Focus Area: Transportation*
    - *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
        - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*
        - *Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.*

END OF STAFF REPORT



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Kenai Peninsula Borough Planning Department

Aerial with 5-foot Contours

KPB File 2022-159V

10/24/2022



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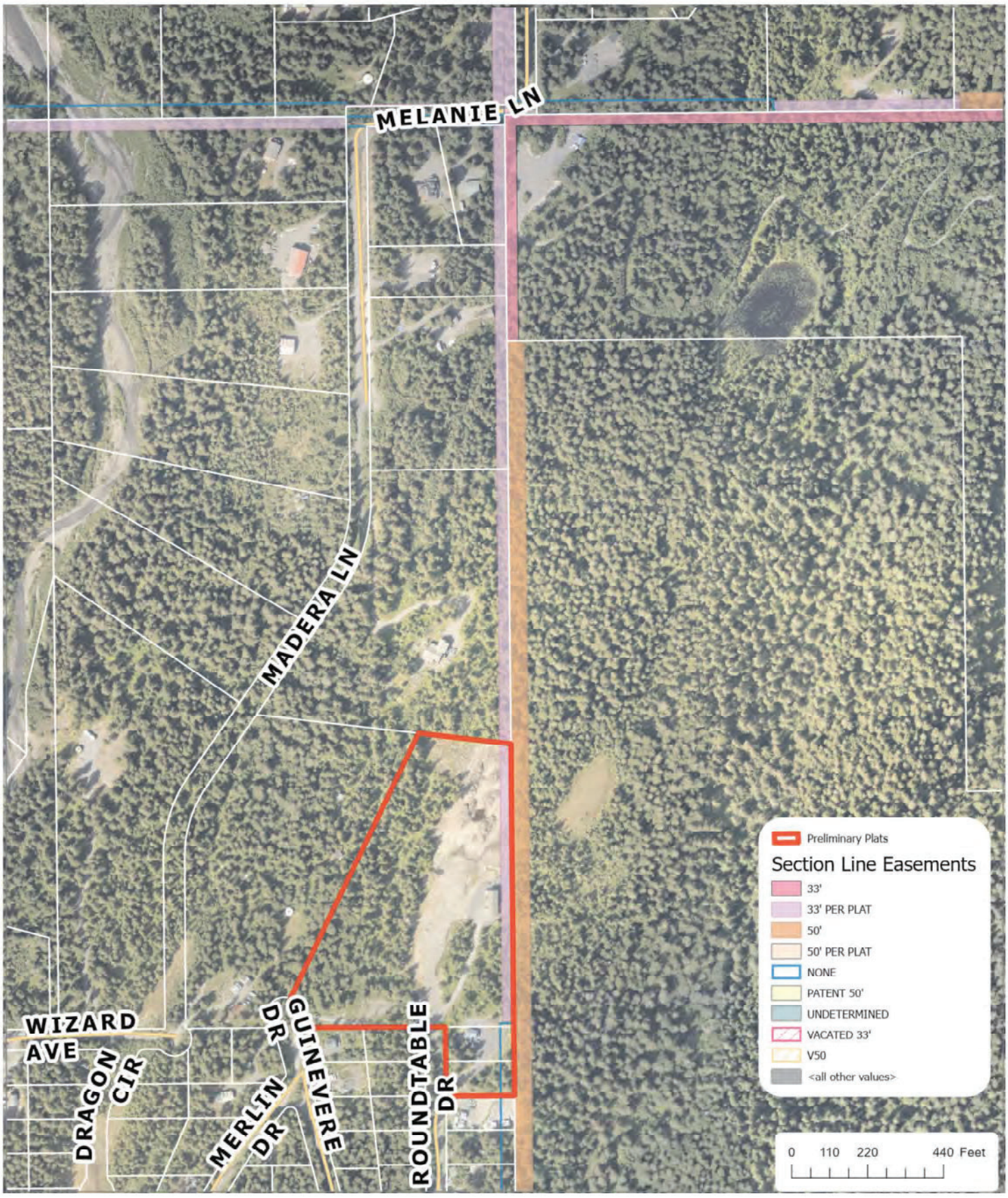
Kenai Peninsula Borough Planning Department

Aerial View

KPB File Number 2022-159V

10/27/2022



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this m

SW 98-01



QUESTA WOODS SUBDIVISION, SOUTHERN ADDITION

A subdivision of Parcel 1, KPB Plat Waiver 96-7.
Located in the NE1/4 Section 23, T1N R1W, SM, Alaska.
Seward Recording District KPB File 96-235

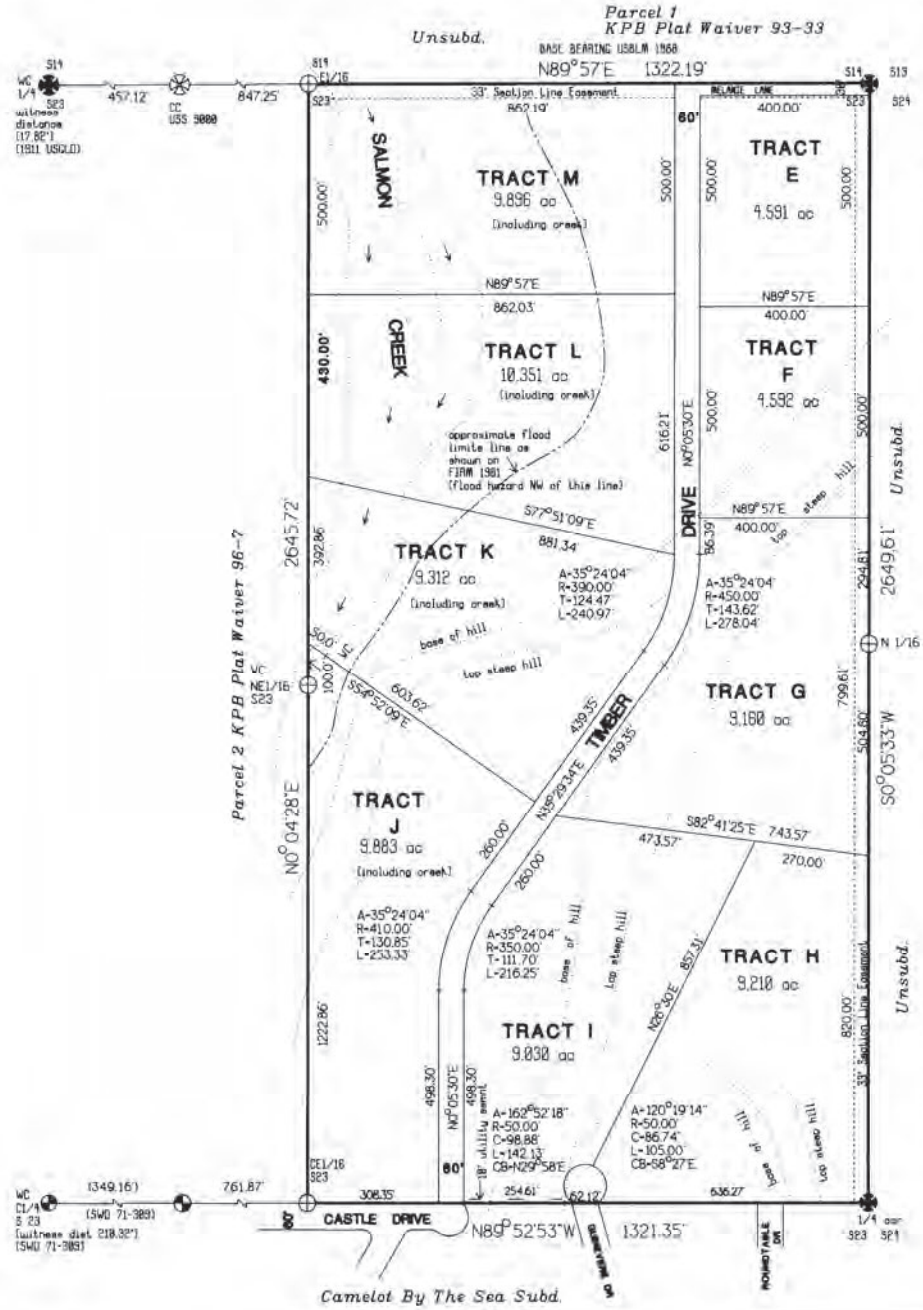
Prepared for
J.B. & Questa Woods
P.O. Box 1733
Seward, AK 99664

Prepared by
Johnson Surveying
Box 27
Clam Gulch, AK 99568

SCALE 1" = 200' **AREA = 80.340 acres** **20 Oct,1996**

98-01
RECORDED - FILED 20.00
SEWARD RECORDING DISTRICT
DATE 1/15 1998
TIME 10:30 A.M.
Requested by
Johnson Surveying
Box 27
Clam Gulch, AK 99568

LEGEND
- 1911 USGLO brass cap monument, found.
- 1985 USBLM brass cap monument, found.
- 1/2"x 24" rebar with 1" plastic cap, set.
- ( ) - Record information from source indicated.
- 1971 2.5" brass cap monument, 1617-E, found.
- 1971 brass cap monument, 1817-E, record SWD 71-389.
- 2.5"x 36" aluminum monument, set.



PLAT APPROVAL
This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of 16 December, 1996.

KENAI PENINSULA BOROUGH

BY: Max J. Best 1/14/98
Authorized Official Date

NOTES
1. A building setback of 20' from all street R.O.W.s is required unless a lesser standard is approved by a resolution of the appropriate planning commission. Front 10' of building setback is also a utility easement as is the entire easement within 5' of side lot lines.
2. No permanent structure shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.
3. Lots within this subdivision may be located within a designated flood hazards area; if such is the case, developement must comply with Title 21, Chapter 85 of the Kenai Peninsula Borough Code of Ordinances. A survey may be to determine the elevation of the property may be required prior to construction.
4. No access to State maintained ROWs permitted unless approved by State of Alaska Dept. of Transportation.

WASTEWATER DISPOSAL
These lots are at least 200,000 square feet or nominal 5 acres in size and conditions may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Dept. of Environmental Conservation.

OWNERSHIP CERTIFICATE
I hereby certify that I am the owner of the real property shown and described hereon; and that I hereby adopt this plan of subdivision, and by my free consent dedicate all rights-of-way and grant all easements to the use shown.

J.B. Woods

J.B. Woods P.O. Box 1733 Seward, AK 99664
President, Ameri-Can Construction, Ltd.
A Nevada Corporation

NOTARY'S ACKNOWLEDGEMENT
For: J.B. Woods
Subscribed and sworn to before me this 14
day of May, 1997.

Notary Public for Alaska

My commission expires ____

Planning Department
144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

RECEIVED
OCT 21 2022
KPB PLANNING DEPT.

PETITION TO VACATE SECTION LINE EASEMENT

PUBLIC HEARING REQUIRED

Upon receipt of complete application with fees and all required attachments, a public hearing before the Planning Commission will be scheduled. The petition with all required information and attachments must be in the Planning Department at least 30 days prior to the preferred hearing date. By State Statute and Borough Code, the public hearing must be scheduled within 60 days of receipt of complete application.

The Kenai Peninsula Borough is advisory to the State of Alaska Department of Natural Resources regarding Section Line Easement Vacations. The State of Alaska has the final authority regarding vacation of Section Line Easements.

Initially, a sketch may be included with the vacation petition for review by the Planning Commission. After the Planning Commission takes action on the vacation, a Section Line Easement Vacation Plat must be prepared by a licensed land surveyor. The plat will be processed in accordance with KPB 20.10.080. Platting authority is vested in the Planning Director.

SUBMITTAL REQUIREMENTS

A Section Line Easement Vacation (SLEV) application will be scheduled for the next available planning commission meeting after a complete application has been received.

- ☑ $500 non-refundable fee to help defray costs of advertising public hearing. Plat fees will be in addition to the vacation fees.
- ☐ City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
- ☑ Is the section line easement in use by any utility company? If so, which company NO
- ☑ Width of easement proposed to be vacated must be shown on the sketch.
- ☑ 3 copies of the plat or map showing the section line easement to be vacated. Must not exceed 11 x 17 inches in size. Proposed alternative public access to be shown and labeled on the sketch
- ☑ REASON FOR VACATING The petitioner must attach a statement with reasonable justification for the vacation of the section line easement.

Has the section line easement been fully or partially constructed?	☐ Yes	☑ No
Is the section line easement used by vehicles / pedestrians / other?	☐ Yes	☑ No
Is alternative right-of-way being provided?	☑ Yes	☐ No

LEGAL DESCRIPTION OF AREA TO BE VACATED:

The east 33 feet of Tract H, Questa Woods Sub, Southern	
Section, township, range Section 23, T1N, R1W	
City (if applicable) Seward	General area Camelot/Questa Woods

The petition must be signed by owners of a majority of the land affected by the section line easement proposed to be vacated. Each petitioner must include address and legal description of his/her property. Attach additional signature sheets if needed.

Submitted by: ☑ **Petitioner** ☑ **Representative**

Name (printed): Ken Lang	Signature
e-mail: ken@lang survey.com	Address: 11500 Daryl Ave,
Owner of: Representative	

Petitioners:

Name (printed): James Daniel Unrein	Signature
e-mail: junrein@hotmail.com	Address: P.O. Box 3474 Seward,
Owner of: Tract H	
Name (printed): Leann M. Unrein	Signature
e-mail: lLeann.michelle@hotmail.cc	Address: 16124 Stineburg Drive Eagle River, AK 99577
Owner of: Tract H	
Name (printed):	Signature
e-mail:	Address:
Owner of:	

FOR OFFICE USE ONLY
RECEIVED BY _____ DATE SUBMITTED _____ KPB FILE # _____

Planning Department
144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

SECTION LINE EASEMENT VACATION - Procedures by Petitioner(s)

Some section line easements are unimproved and not used. Under certain circumstances, some of these section line easements may be vacated. Section line easement vacation petitions must comply with the requirements of the following:

1) KPB 20.70.040 (petition required).
A. A platted right-of-way or platted public area may not be vacated, except upon petition by resolution of the governing body from a municipality in which the property is located or by the owners of the majority of land fronting or abutting the right-of-way or public area to be vacated. The petition shall be filed with the planning commission.

2) KPB 20.70.050 (petition information required).
A. A recorded plat may not be altered or replatted except by the platting authority on petition of the state, the borough, a public utility, or the owners of the majority of the land affected by the alteration or replat. A platted street may not be vacated, except on petition of the state, the borough, a public utility, or the owners of a majority of the land fronting the part of the street sought to be vacated. The petition shall be filed with the platting authority and shall be accompanied by a copy of the existing plat showing the proposed alteration or replat.

B. Persons listed on the borough assessor's tax roll shall be deemed the legal owners for purposes of the vacation petition. The petition shall include a statement containing the reasons in support of the vacation and be accompanied by a minimum of three copies of a sketch clearly indicating the proposed vacation, submitted to the planning department at least 30 calendar days in advance of the meeting at which it will be considered. Additional copies may be required as needed. In cases where encroachments on public rights-of-way are in question, an as-built survey, sealed by a surveyor, is required showing the improvements, existing travelways, amount of encroachment, and any other submittal as requested by the planning commission. The burden of proof shall lie with the petitioner to support the vacation.

C. In areas where right-of-way is being vacated due to excessive topographic features, a contour map or centerline profile and/or right-of-way cross sectional view may be required by the commission to substantiate the unusable right-of-way and show alternate and dedicated routes to insure ingress and egress to adjacent lands.

D. If the proposed vacation lies within the boundaries of an incorporated city, comments from the city advisory planning commission must be submitted with the petition.

3) KPB 20.70.060 (fee required)
The fee established by the current Kenai Peninsula Borough Schedule of Rates, Charges and Fees shall accompany the filing of the vacation petition.

4) 20.70.070. Public hearing required.
Upon receipt of the complete vacation application including petition, sketches, and fee, the planning commission shall schedule a public hearing on the petition to be conducted within 60 calendar days after filing.

Public hearing and notice must comply with the requirements of KPB 20.70.070, 20.70.080, 20.70.100, 20.70.110 and 20.70.120.

5) 20.70.080
C. A notice shall be sent by regular mail to each property owner as shown on the Kenai Peninsula Borough tax rolls within a 300-foot radius from the section line easement proposed for vacation.

Notices will be sent by regular mail. Publication on the planning commission agenda, advertised once in local papers, posted in public areas and on the borough website prior to the meeting will satisfy the publishing requirements.

6) 20.70.100. Hearing board—Authority and determination.
The planning commission shall conduct the public hearing, consider the vacation petition, and make its decision on the merits of the proposal. The planning director shall forward a copy of the minutes pertaining to the action to the assembly or appropriate city council within five calendar days following their decision.

7) 20.70.110. Vacation consent—City council or assembly.
A vacation of a city street, public right-of-way, public area, or public easement located within an incorporated city may not be approved without the consent of the city council. A vacation of a street right-of-way, public area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly. The assembly or council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the city or borough shall be considered to have given consent to the vacation.

8) 20.70.120. Action after denial of vacation petition.
A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.

B. Upon denial by the planning commission, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.

The petitioner is responsible for all submittals required by the State of Alaska Department of Natural Resources (DNR) in compliance with their procedures. The petition must be reviewed and approved by the planning commission but final authority for approval and platting of the vacation rests with DNR. The petitioner is responsible for coordination with DNR and submittals to DNR.

Planning Department
144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

PETITION TO VACATE PLATTED RIGHT OF WAY / PLATTED PUBLIC EASEMENT / PLATTED PUBLIC AREA

PUBLIC HEARING REQUIRED

Upon receipt of complete application with fees and all required attachments, a public hearing before the Planning Commission will be scheduled. The petition with all required information and attachments must be in the Planning Department at least 30 days prior to the preferred hearing date. By State Statute and Borough Code, the public hearing must be scheduled within 60 days of receipt of complete application.

Initially, a sketch may be included with the vacation petition for review by the Planning Commission. After the Planning Commission takes action on the vacation, a Subdivision Plat must be prepared by a licensed land surveyor. The plat will be processed in accordance with KPB 20.10.080. Platting authority is vested in the Planning Director.

SUBMITTAL REQUIREMENTS

A platted right of way vacation (ROWV) application will be scheduled for the next available planning commission meeting after a complete application has been received.

- [x] - $500 non-refundable fee to help defray costs of advertising public hearing. Plat fees will be in addition to the vacation fees.
- [ ] - City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
- [ ] Lupin Ave platted public right of way proposed to be vacated was dedicated by the plat of Centennial Shores SD No. 1 Subdivision, filed as Plat No. 85-157 in the Kenai Recording District.
- [x] - 3 copies of the plat or map showing the platted right of way to be vacated. Must not exceed 11 x 17 inches in size. Area to be vacated must be clearly depicted. Proposed alternative public access to be shown and labeled on the sketch.
- [x] - REASON FOR VACATING The petitioner must attach a statement with reasonable justification for the vacation of the platted right of way / platted easement / platted public area.

Has the platted right of way been fully or partially constructed?	✓	Yes		No
Is the platted right of way used by vehicles / pedestrians / other?	✓	Yes		No
Is alternative right-of-way being provided?	✓	Yes		No
Are there utility easements associated with the right of way to be vacated?	✓	Yes		No
Is the platted right of way and or associated utility easement in use by any utility company?		Yes	✓	No
If so, which utility provider?				

LEGAL DESCRIPTION ADJOINING LAND:

Lot, Block, Subd. or street address Centennial Shores SD No. 1 Block 2 Lot 1 Parcel ID 01321824	
Section, township, range T7N R11W Section 7	
City (if applicable)	General area Char-Vic Lake

The petition must be signed by owners of a majority of the land affected by the platted right of way proposed to be vacated. Each petitioner must include address and legal description of his/her property. Attach additional signature sheets if needed.

Submitted by:
Land Owner

Name (printed): Eric Ranguette	Signature
e-mail:	Address:
Owner of: Lot 1	

Land Owner:

Name (printed):	Signature
e-mail:	Address:
Owner of: Lot 1	

FOR OFFICE USE ONLY
RECEIVED BY _____ DATE SUBMITTED_____ KPB FILE #_____

Kenai Peninsula Borough
Planning Department

MEMORANDUM

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

FROM: Robert Ruffner, Planning Director RR

DATE: November 28, 2022

RE: Right-Of-Way Vacation: Vacate a 17-Foot Width & Part of a Cul-De-Sac Bulb for a 373-Foot Portion of Lupine Avenue & Associated Utility Easement. KPB File 2022-156V

In accordance with AS 29.40.140, no vacation of a Borough right-of-way and/or easement may be made without the consent of the Borough Assembly.

During their regularly scheduled meeting of November 14, 2022 the Kenai Peninsula Borough Planning Commission granted approval of the above proposed vacation by unanimous vote based on the means of evaluating public necessity established by KPB 20.65 (10-Yes, 2-Absent, 2-Vacant). This petition is being sent to you for your consideration and action.

A draft copy of the unapproved minutes of the pertinent portion of the meeting and other related materials are attached.

November 14, 2022 Draft PC Minutes
November 14, 2022 Meeting Packet Materials
Petition Form

Hearing no objection or further discussion, the motion was carried by the following vote:
MOTION PASSED BY UNANIMOUS VOTE:

Yes - 10	Gillham, Horton, Hooper, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
Absent - 2	Brantley, Fikes

ITEM E3 - RIGHT OF WAY VACATION
VACATE A 17 FOOT WIDTH AND PART OF A CUL-DE-SAC BULB FOR A 373 FOOT PORTION OF LUPINE AVENUE AND ASSOCIATED UTILITY EASEMENTS

KPB File No.	2022-156V
Planning Commission Meeting:	November 14, 2022
Applicant / Owner:	Eric Ranguette of Soldotna, AK
Surveyor:	Jason Young, Mark Aimonetti / Edge Survey and Design, LLC
General Location:	Lupine Avenue, Keeven Lane, Nikiski area
Legal Description:	Lupine Avenue, Lot 1 Block 2, Centennial Shores Subdivision Number 1, Plat KN 85-157

Staff report given by Planning Director Robert Ruffner

Vice Chair Martin opened the item for public comment.

Jason Young, Edge Survey & Design; P.O. Box 208, Kasilof, AK 99610: Mr. Young was the surveyor on this project and made himself available for questions.

Seeing and hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Horton moved, seconded by Commissioner Gillham to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

Hearing no objection or further discussion, the motion was carried by the following vote:
MOTION PASSED BY UNANIMOUS VOTE:

Yes - 10	Gillham, Horton, Hooper, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
Absent - 2	Brantley, Fikes

ITEM E4 – CONDITIONAL USE PERMIT
ANADROMOUS WATERS HABITAT PROTECTION DISTRICT
PC RESOLUTION 2022-41

KPB File No.	2022-41
Planning Commission Meeting:	November 14, 2022
Applicant	Alaska Railroad Corporation
Mailing Address	327 W Ship Creek Ave, Anchorage AK 99501
Legal Description	T 4N R 1W SEC 13 SEWARD MERIDIAN SW 0880002 ALASKA STATE LAND SURVEY 86-176 TRACT A EXCEPT ASLS 86-6
Physical Address	MP 25.7 of the Seward Highway
KPB Parcel Number	12516022

Staff report given by Resource Planner Morgan Aldridge.

Vice Chair Martin opened the item for public comment. See and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

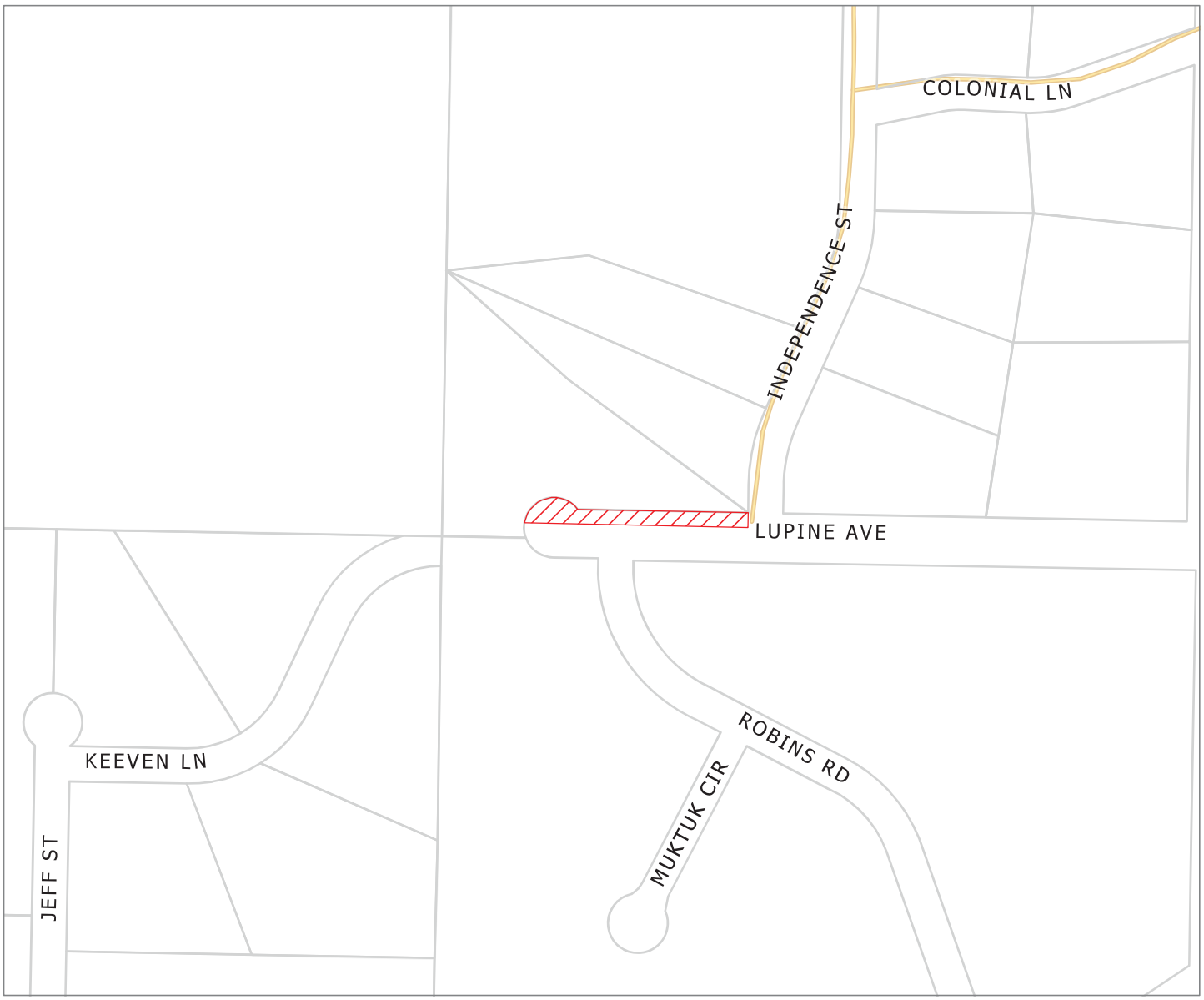
UNAPPROVED

E. NEW BUSINESS

3. Right-Of-Way Vacation; KPB File 2022-156V
Request: Vacate a 17' width and part of a cul-de-sac bulb for a 373' portion of Lupine Ave. & vacates associated utility easements

Kenai Peninsula Borough Planning Department

Vicinity Map



KPB File 2022-156V

T 07N R 11W SEC 7

Nikiski

10/19/2022

0 350 700 Feet



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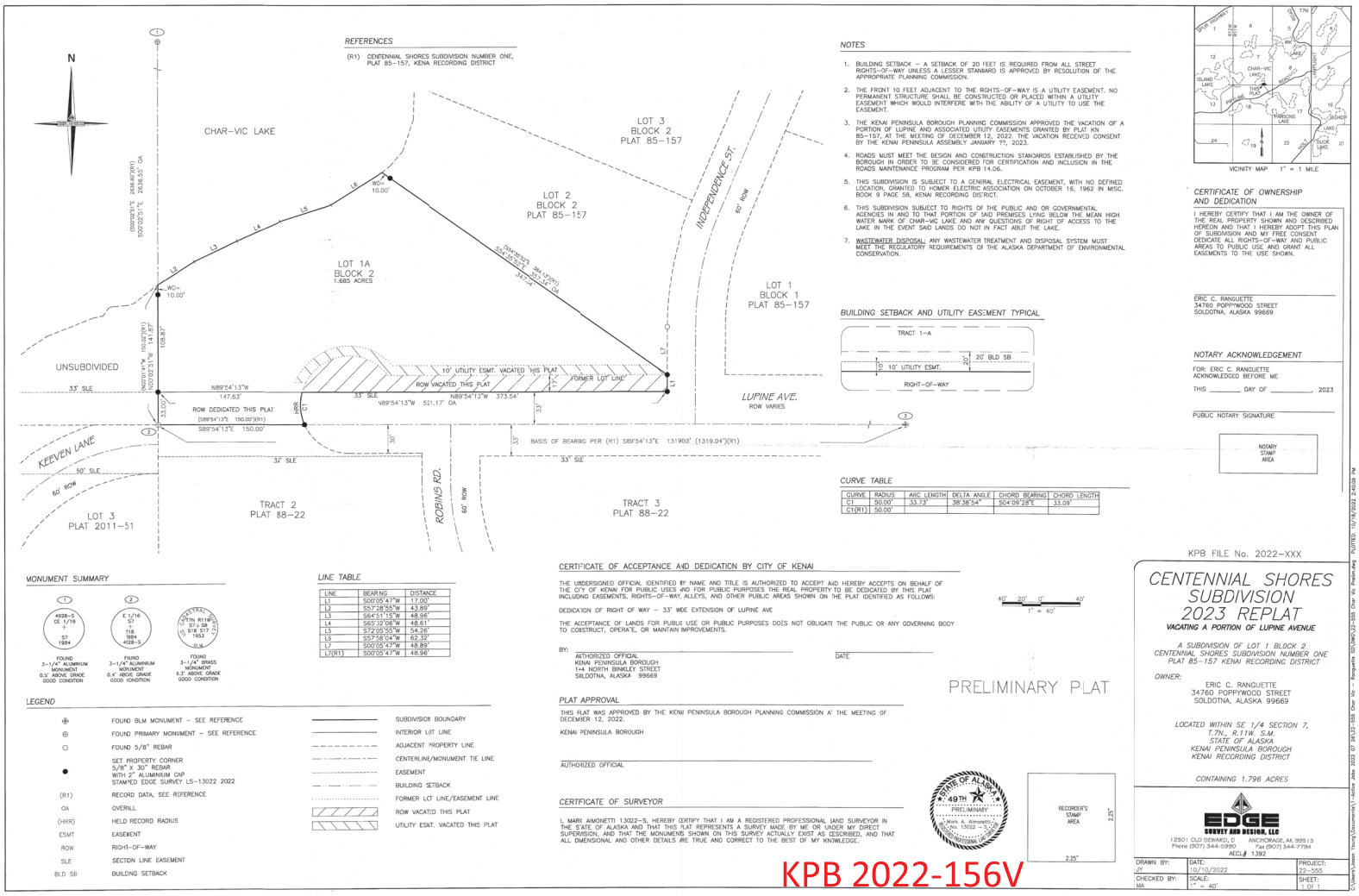
Kenai Peninsula Borough Planning Department

Aerial View

KPB 2022-156V
10/19/2022



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this n


N
REFERENCES
(R1) CENTENNIAL SHORES SUBDIVISION NUMBER ONE, PLAT 85-157, KENAI RECORDING DISTRICT
CHAR-VIC LAKE
LOT 3 BLOCK 2 PLAT 85-157
LOT 2 BLOCK 2 PLAT 85-157
LOT 1A BLOCK 2 1.685 ACRES
LOT 1 BLOCK 1 PLAT 85-157
INDEPENDENCE ST.
60' ROW
UNSUBDIVIDED
33' SLE
10' UTILITY ESMT. VACATED THIS PLAT
ROW VACATED THIS PLAT
FORMER LOT LINE
ROW DEDICATED THIS PLAT
LUPINE AVE.
ROW VARIES
BASIS OF BEARING PER (R1) S89°54'13"E 1319.03' (1319.04')(R1)
KEEVEN LANE
50' SLE
60' ROW
LOT 3 PLAT 2011-51
TRACT 2 PLAT 88-22
ROBINS RD.
TRACT 3 PLAT 88-22
NOTES
1. BUILDING SETBACK – A SETBACK OF 20 FEET IS REQUIRED FROM ALL STREET RIGHTS-OF-WAY UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
2. THE FRONT 10 FEET ADJACENT TO THE RIGHTS-OF-WAY IS A UTILITY EASEMENT. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
3. THE KENAI PENINSULA BOROUGH PLANNING COMMISSION APPROVED THE VACATION OF A PORTION OF LUPINE AND ASSOCIATED UTILITY EASEMENTS GRANTED BY PLAT KN 85-157, AT THE MEETING OF DECEMBER 12, 2022. THE VACATION RECEIVED CONSENT BY THE KENAI PENINSULA ASSEMBLY JANUARY ??, 2023.
4. ROADS MUST MEET THE DESIGN AND CONSTRUCTION STANDARDS ESTABLISHED BY THE BOROUGH IN ORDER TO BE CONSIDERED FOR CERTIFICATION AND INCLUSION IN THE ROADS MAINTENANCE PROGRAM PER KPB 14.06.
5. THIS SUBDIVISION IS SUBJECT TO A GENERAL ELECTRICAL EASEMENT, WITH NO DEFINED LOCATION, GRANTED TO HOMER ELECTRIC ASSOCIATION ON OCTOBER 16, 1962 IN MISC. BOOK 9 PAGE 58, KENAI RECORDING DISTRICT.
6. THIS SUBDIVISION SUBJECT TO RIGHTS OF THE PUBLIC AND OR GOVERNMENTAL AGENCIES IN AND TO THAT PORTION OF SAID PREMISES LYING BELOW THE MEAN HIGH WATER MARK OF CHAR-VIC LAKE AND ANY QUESTIONS OF RIGHT OF ACCESS TO THE LAKE IN THE EVENT SAID LANDS DO NOT IN FACT ABUT THE LAKE.
7. WASTEWATER DISPOSAL: ANY WASTEWATER TREATMENT AND DISPOSAL SYSTEM MUST MEET THE REGULATORY REQUIREMENTS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.
BUILDING SETBACK AND UTILITY EASEMENT TYPICAL
TRACT 1-A
20' BLD SB
10' UTILITY ESMT.
RIGHT-OF-WAY
CURVE TABLE
CURVE | RADIUS | ARC LENGTH | DELTA ANGLE | CHORD BEARING | CHORD LENGTH
C1 | 50.00' | 33.73' | 38°38'54" | S04°09'28"E | 33.09'
C1(R1) | 50.00'
MONUMENT SUMMARY
1 4928-S CE 1/16 + S7 1984 FOUND 3-1/4" ALUMINUM MONUMENT 0.5' ABOVE GRADE GOOD CONDITION
2 E 1/16 S7 + 118 1984 4928-S FOUND 3-1/4" ALUMINUM MONUMENT 0.4' ABOVE GRADE GOOD CONDITION
(S17°7'N R11°W S7 S8 S18 S17 1953 BLM) FOUND 3-1/4" BRASS MONUMENT 0.3' ABOVE GRADE GOOD CONDITION
LINE TABLE
LINE | BEARING | DISTANCE
L1 | S00°05'47"W | 17.00'
L2 | S57°28'55"W | 43.89'
L3 | S64°51'15"W | 48.96'
L4 | S63°32'06"W | 48.61'
L5 | S72°05'55"W | 54.26'
L6 | S57°58'04"W | 62.32'
L7 | S00°05'47"W | 48.89'
L7(R1) | S00°05'47"W | 48.96'
LEGEND
FOUND BLM MONUMENT – SEE REFERENCE
FOUND PRIMARY MONUMENT – SEE REFERENCE
FOUND 5/8" REBAR
SET PROPERTY CORNER 5/8" X 30" REBAR WITH 2" ALUMINUM CAP STAMPED EDGE SURVEY LS-13022 2022
(R1) RECORD DATA, SEE REFERENCE
OA OVERALL
(HRR) HELD RECORD RADIUS
ESMT EASEMENT
ROW RIGHT-OF-WAY
SLE SECTON LINE EASEMENT
BLD SB BUILDING SETBACK
SUBDIVISION BOUNDARY
INTERIOR LOT LINE
ADJACENT PROPERTY LINE
CENTERLINE/MONUMENT TIE LINE
EASEMENT
BUILDING SETBACK
FORMER LOT LINE/EASEMENT LINE
ROW VACATED THIS PLAT
UTILITY ESMT. VACATED THIS PLAT
CERTIFICATE OF ACCEPTANCE AND DEDICATION BY CITY OF KENAI
THE UNDERSIGNED OFFICIAL IDENTIFIED BY NAME AND TITLE IS AUTHORIZED TO ACCEPT AND HEREBY ACCEPTS ON BEHALF OF THE CITY OF KENAI FOR PUBLIC USES AND FOR PUBLIC PURPOSES THE REAL PROPERTY TO BE DEDICATED BY THIS PLAT INCLUDING EASEMENTS, RIGHTS-OF-WAY, ALLEYS, AND OTHER PUBLIC AREAS SHOWN ON THE PLAT IDENTIFIED AS FOLLOWS:
DEDICATION OF RIGHT OF WAY – 33' WIDE EXTENSION OF LUPINE AVE.
THE ACCEPTANCE OF LANDS FOR PUBLIC USE OR PUBLIC PURPOSES DOES NOT OBLIGATE THE PUBLIC OR ANY GOVERNING BODY TO CONSTRUCT, OPERATE, OR MAINTAIN IMPROVEMENTS.
BY: DATE:
AUTHORIZED OFFICIAL
KENAI PENINSULA BOROUGH
144 NORTH BINKLEY STREET
SOLDOTNA, ALASKA 99669
PLAT APPROVAL
THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF DECEMBER 12, 2022.
KENAI PENINSULA BOROUGH
AUTHORIZED OFFICIAL
CERTIFICATE OF SURVEYOR
I, MARK A. AIMONETTI 13022-S, HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF ALASKA AND THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT THE MONUMENTS SHOWN ON THIS SURVEY ACTUALLY EXIST AS DESCRIBED, AND THAT ALL DIMENSIONAL AND OTHER DETAILS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.
STATE OF ALASKA 49TH PRELIMINARY Mark A. Aimonetti LS-No. 13022 – S
RECORDER'S STAMP AREA
2.25"
2.25"
40' 20' 0' 40'
1" = 40'
PRELIMINARY PLAT
KPB FILE No. 2022-XXX
CENTENNIAL SHORES SUBDIVISION 2023 REPLAT
VACATING A PORTION OF LUPINE AVENUE
A SUBDIVISION OF LOT 1 BLOCK 2 CENTENNIAL SHORES SUBDIVISION NUMBER ONE PLAT 85-157 KENAI RECORDING DISTRICT
OWNER:
ERIC C. RANGUETTE
34760 POPPYWOOD STREET
SOLDOTNA, ALASKA 99669
LOCATED WITHIN SE 1/4 SECTION 7, T.7N., R.11W. S.M. STATE OF ALASKA KENAI PENINSULA BOROUGH KENAI RECORDING DISTRICT
CONTAINING 1.796 ACRES
VICINITY MAP 1" = 1 MILE
CERTIFICATE OF OWNERSHIP AND DEDICATION
I HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION AND MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.
ERIC C. RANGUETTE
34760 POPPYWOOD STREET
SOLDOTNA, ALASKA 99669
NOTARY ACKNOWLEDGEMENT
FOR: ERIC C. RANGUETTE
ACKNOWLEDGED BEFORE ME
THIS _____ DAY OF _____, 2023
PUBLIC NOTARY SIGNATURE
NOTARY STAMP AREA
EDGE SURVEY AND DESIGN, LLC
1250 I OLD SEWARD, D ANCHORAGE, AK 99515
Phone (907) 344-5990 Fax (907) 344-7794
ASCL# 1392
DRAWN BY: JY
DATE: 10/10/2022
PROJECT: 22-555
CHECKED BY: MA
SCALE: 1" = 40'
SHEET: 1 OF 1
KPB 2022-156V

AGENDA ITEM E. NEW BUSINESS

ITEM 3. - RIGHT OF WAY VACATION
VACATE A 17 FOOT WIDTH AND PART OF A CUL-DE-SAC BULB FOR A 373 FOOT PORTION OF LUPINE AVENUE AND ASSOCIATED UTILITY EASEMENTS

KPB File No.	2022-156V
Planning Commission Meeting:	November 14, 2022
Applicant / Owner:	Eric Ranguette of Soldotna, AK
Surveyor:	Jason Young, Mark Aimonetti / Edge Survey and Design, LLC
General Location:	Lupine Avenue, Keeven Lane, Nikiski area
Legal Description:	Lupine Avenue, Lot 1 Block 2, Centennial Shores Subdivision Number 1, Plat KN 85-157

STAFF REPORT

Specific Request / Purpose as stated in the petition: Asking to vacate a portion of Lupine Avenue and associated utility easements. Findings for justification to vacate:

1. Lupine Ave. 83' wide dedication, exceeding KPB code of 60' right-of-way width. 50' of the dedication on the North side of section line from plat 85-157 and 33' of the dedication on the South side of section line from plat 88-22.
2. Traveled and used drivable surface of Lupine Ave will remain in the ROW dedicated area.
3. House and improvements on Lot 1 encroaching into current 20' building setback and 10' utility easements along current dedicated cul-de-sac, current owner bought as is and would like to fix the encroachments for future sale and owners.
4. Cul-de-sac not developed, used or needed by public.
5. This platting action will also dedicate 33' of ROW to the West, bringing Lupine Ave. to a full ROW width to West property line.
6. Utility easement vacation and building setback encroachment permit denied by KPB, this platting action was recommended to resolve the encroachments.

Notification: Public notice appeared in the November 3, 2022 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the November 10, 2022 issue of the Peninsula Clarion as part of the Commission's tentative agenda.

The public notice was posted on the Planning Commission bulletin board at the Kenai Peninsula Borough George A. Navarre Administration building. Additional notices were mailed to the following with the request to be posted for public viewing.

Library of Nikiski
Post Office of Nikiski

Sixteen certified mailings were sent to owners of property within 600 feet of the proposed vacation. Seven receipts had been returned when the staff report was prepared.

Seventeen public hearing notices were emailed to agencies and interested parties as shown below;

State of Alaska Dept. of Fish and Game
State of Alaska DNR
State of Alaska DOT
State of Alaska DNR Forestry
Nikiski Emergency Services
Nikiski Community Council
Alaska Communication Systems (ACS)
ENSTAR Natural Gas
General Communications Inc, (GCI)
Homer Electric Association (HEA)

Legal Access (existing and proposed): The access will remain from Lupine Avenue. The proposed vacation will be reducing the width of the right-of-way and remove a portion of the cul-de-sac bulb.

Lupine Avenue is located at the south end of borough maintained Independence Street. The area is accessed from Pipeline Road that is located near mile 6 of state maintained Holt Lamplight Road. Not all portions of Pipeline Road are maintained by the roads accessing this vacation do connect to the maintained portion.

Lupine Avenue is dedicated as 83 feet wide atop section line easements that are 66 feet in width. The northern half of Lupine Avenue was dedicated as 50 feet in width. The right-of-way ends with a cul-de-sac bulb. While this right-of-way ends with a bulb, which indicates it is to be permanently closed, it is atop a section line easement and a travelway exists beyond the bulb to connect to Keeven Lane and then to Jeff Street. While these rights-of-way have dedicated access to Pipeline Road, the dedications go through some low wet areas and so the owners in the area use Lupine Avenue for their access. Lupine Avenue, Keeven Lane, and Jeff Street are not borough maintained.

There is an existing structure within the building setback and utility easement adjacent to Lupine Avenue on the subject property. The proposal is to reduce the width of the right-of-way, vacate a portion of the bulb, and provide a through dedication atop the existing travelway.

The block is not compliant due to lakes, wetlands, and large acreage tracts in the area. The proposed dedication does improve the block and access but this plat will not be able to provide any additional dedications to improve the block due to the lake.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	No comment

Site Investigation: An as-built was done for a previous submittal. The as-built shows a portion of the house with portions of the deck are within the building setback associated with the cul-de-sac bulb for Lupine Avenue. The roadway continues past the house and uses the section line easement to go past the bulb for access to lots further to the west.

There do not appear to be any wetlands affecting the subject area or the right-of-way in this area. There are no steep slopes within the subject area or surrounding right-of-way.

KPB River Center review	Floodplain: No comments Habitat Protection: Is NOT within HPD. No comments. State Parks: No comments
State Fish and Game	No objections

Staff Analysis: The property was originally subdivided by Centennial Shores Subdivision Number one, Plat KN 85-157. The plat created Lot 1 Block 2 as well as dedicated Lupine Avenue, originally named Dog Bone Avenue, as a 50 foot wide right-of-way that ended with a partial bulb as an existing roadway continued to the south.

The property to the south was originally subdivided by Robins Subdivision No. 1, KN 79-139. It did not dedicate any portion of Lupine Avenue but did indicate a section line easement was present. The property was then replatted by Kenai Timers, Plat KN 86-133, which was amended by KN 86-195. That plat vacated the original dedication of Robins Road and dedicated the new location as currently exists. The plat also dedicated the southern portion of Lupine Avenue by granting 30 feet to 33 feet of dedication. The plat indicates 30 feet at the western portion with 33

feet on the eastern portion with a 33 foot section line easement still in place. Kenai Timbers Replat, KN 88-22, was recorded which removed lot lines to create larger tracts but the dedications remained as granted by the parent plats.

The current configuration is an 80 to 83 foot wide right of way atop section line easements. The cul-de-sac bulb has been broke through to provide access to the properties to the west by the use of the section line easements. Per KPB Code, cul-de-sacs should be viewed as permanently closed and to open a cul-de-sac staff requests approval from all lots along the cul-de-sac. Due to the limited number of owners along the cul-de-sac and the existence of an "in-use" section line easement, staff did not required signatures from additional landowners but all within 600 feet of the vacation have received certified notification.

Centennial Shores Subdivision Number one, Plat KN 85-157 did not depict setbacks but plat note 2 stated "*BUILDING SET BACK – A building set back of 20 ft. is required from all street rights of ways unless a lesser standard is approved by resolution of the appropriate Planning Commission."*

Staff worked with the KPB Assessing department to determine if the structures in question may have been built prior to the creation of the setback and utility easements. Records do indicate a structure was present before the creation of the setback but the deck was improved after the setback was put into place. It is also unknown if any other improvements on the house were done prior or after.

The Kenai Peninsula Borough Planning Commission heard a petition for a building setback encroachment permit and a utility easement vacation for the encroachments shown on the as-built. The Planning Commission, at their August 8, 2022 meeting denied the encroachment permit and utility easement alteration. As the dedicated right-of-way is wider than required by KPB Code and the fact that landowners were using the section line easements west of the dedication, it was recommended to propose a vacation and dedication to resolve not only the encroachment issues but to provide a dedicated access through.

20.65.050 – Action on vacation application

D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:

1. The right-of-way or public easement to be vacated is being used;
   Staff comments: The portion being vacated needs to be outside the used /driven road in the southeast corner. Surveyor needs to locate the road and adjust the vacated area accordingly. *The dedicated right-of-way and section line easement are in use. The width granted is larger than required by KPB Code.*

2. A road is impossible or impractical to construct, and alternative access has been provided;
   Staff comments: *The surveyor indicated the intent to dedicate a continuation of the right-of-way and making sure the existing roadway is within the remaining and new dedication.*

3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
   Staff comments: *The area is developed and this new dedication will improve the area. New utility easements will be required along the new edge of right-of-way and any requests by utility companies shall be reviewed.*

4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;
   Staff comments: *Does not access public lands*

5 The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: *The vacation will not limit as there will still be a 66 foot wide dedication.*

6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments:

7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way.
Staff comments: *10 foot utility easements will be required adjacent to the new right-of-way edge.*

8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.
Staff comments: *This will resolve the encroachment issues for the owner and provide a through dedication for the neighboring lands.*

A KPB Planning Commission decision denying a vacation application is final. A KPB Planning Commission decision to approve the vacation application is subject to consent or veto by the KPB Assembly, or City Council if located within City boundaries. The KPB Assembly, or City Council must hear the vacation within thirty days of the Planning Commission decision.

The Assembly or City Council will hear the vacation at their scheduled December 13, 2022 meeting.

If approved, Centennial Shores Subdivision 2023 Replat will finalize the proposed right of way vacations. The Plat Committee is scheduled to review the plat on November 14, 2022.

KPB department / agency review:

Planner	Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat. Material Site Comments: There are not any material site issues with this proposed plat.
Code Compliance	Reviewer: Ogren, Eric Comments: No comments
Addressing	Reviewer: Haws, Derek Affected Addresses: 51200 LUPINE AVE Existing Street Names are Correct: Yes List of Correct Street Names: LUPINE AVE INDEPENDENCE ST ROBINS RD KEEVEN LN Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names:

	List of Street Names Denied: Comments: 51200 LUPINE AVE will remain with lot 1A.
Assessing	Reviewer: Windsor, Heather Comments: No comment

Utility provider review:

HEA	No comments
ENSTAR	No comments or recommendations
ACS	No objections
GCI	Approved as shown

RECOMMENDATION:

Based on consideration of the merits as per KPB 20.65.050(D) as outlined by Staff comments, Staff recommends APPROVAL as petitioned, subject to:

1. Consent by KPB Assembly.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by the utility providers.
4. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent (KPB 20.70.130).

KPB 20.65.050 – Action on vacation application

H. A planning commission decision to approve a vacation is not effective without the consent of the city council, if the vacated area to be vacated is within a city, or by the assembly in all other cases. The council or assembly shall have 30 days from the date of the planning commission approval to either consent to or veto the vacation. Notice of veto of the vacation shall be immediately given to the planning commission. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation. This provision does not apply to alterations of utility easements under KPB 20.65.070 which do not require the consent of the assembly or city council unless city code specifically provides otherwise.

I. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, where applicable, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent.

J. A planning commission decision denying a vacation application is final. No reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.

K. An appeal of the planning commission, city council or assembly vacation action under this chapter must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.

The 2019 Kenai Peninsula Borough Comprehensive Plan adopted November, 2019 by Ordinance No. 2019-25. The relevant objectives are listed.

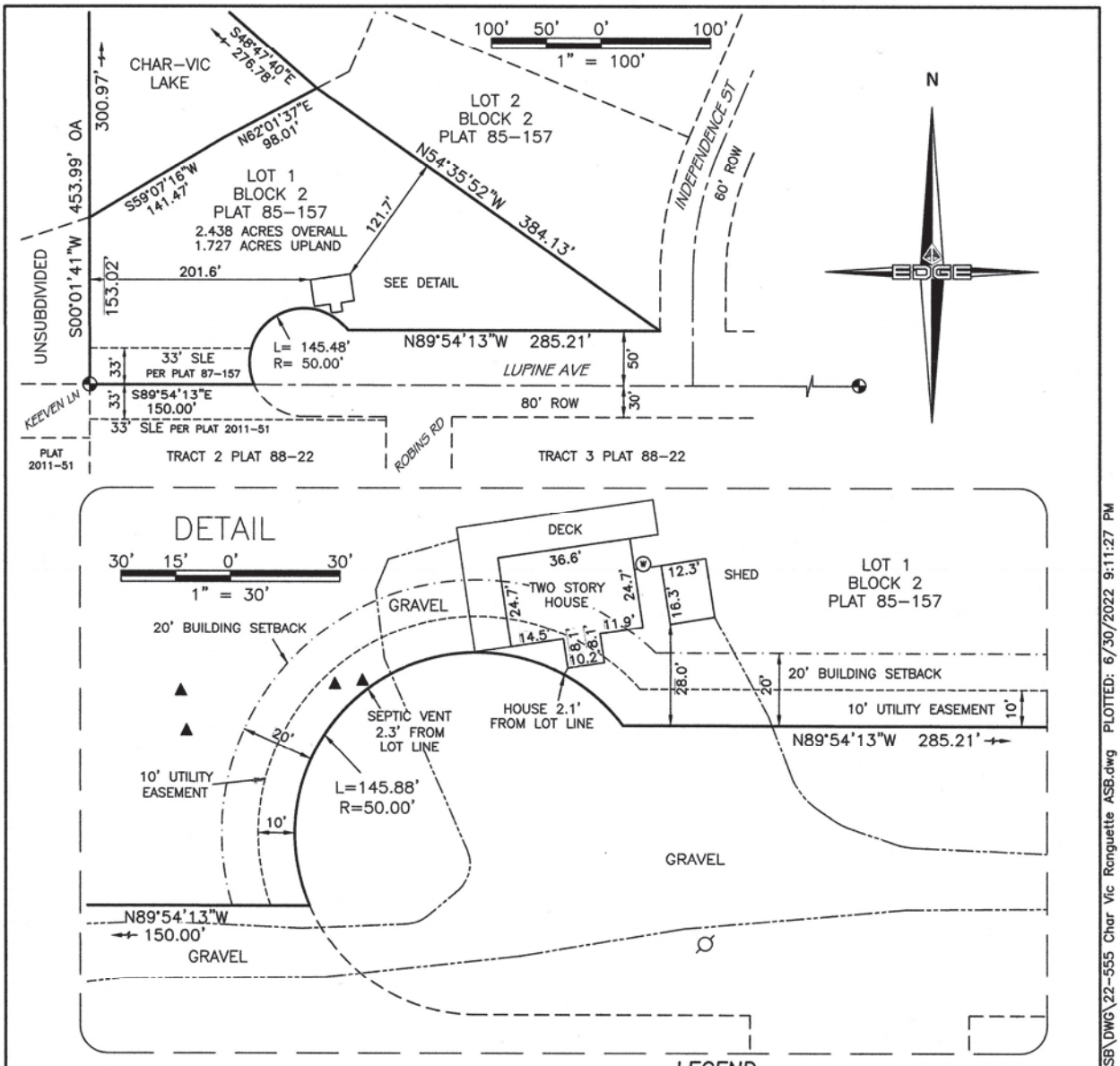
Goal 3. Preserve and improve quality of life on the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services.

- *Focus Area: Energy and Utilities*
  - *Objective A - Encourage coordination or residential, commercial, and industrial development with extension of utilities and other infrastructure.*
    - *Strategy 1. Near – Term: Maintain existing easements (especially section line easements) in addition to establishing adequate utility rights of way or easements to serve existing and future utility needs.*
    - *Strategy 2. Near – Term: Maintain regular contact with utility operators to coordinate and review utility easement requests that are part of subdivision plat approval.*
    - *Strategy 3. Near – Term: Identify potential utility routes on Borough lands.*
- *Housing*
  - *Objective D. Encourage efficient use of land, infrastructure and services outside incorporated cities by prioritizing future growth in the most suitable areas.*
    - *Strategy 1. Near – Term: Collaborate with the AK Department of Transportation, incorporated cities within the borough, utility providers, other agencies overseeing local services, and existing communities located adjacent to the undeveloped areas that are appropriate for future growth, to align plans for future expansion of services to serve future residential development and manage growth.*

Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough

- *Focus Area: Transportation*
  - *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
    - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*
    - *Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.*

END OF STAFF REPORT



NOTES

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RECORD DATA SHOWN HEREON IS PER PLAT 85–157, KENAI RECORDING DISTRICT.

LEGEND

⊕	MONUMENT FOUND
▲	SEPTIC VENT
Ⓦ	WELL
⌀	UTILITY POLE
———	PARCEL BOUNDARY
– – – – –	ADJACENT PROPERTY LINE
—·—·—	EDGE GRAVEL
- - - - -	EASEMENT
—·—·—·—	SETBACK
SLE	SECTION LINE EASEMENT
UE	UTILITY EASEMENT
BLD SB	BUILDING SETBACK

SURVEYOR CERTIFICATE

I HEREBY CERTIFY THAT I HAVE PERFORMED AN AS–BUILT SURVEY ON THE PROPERTY SHOWN HEREON AND THE IMPROVEMENTS EXIST AS SHOWN. FIELD SURVEY 5/21/2022.

7/1/2022

RYAN SORENSEN
PLS 13006–S

STATE OF ALASKA 49TH
Ryan Sorensen
No. 13006 – S
7/1/2022
REGISTERED PROFESSIONAL LAND SURVEYOR

EDGE SURVEY AND DESIGN, LLC
12501 OLD SEWARD, D ANCHORAGE, AK 99515
Phone (907) 344-5990 Fax (907) 344-7794

AS–BUILT SURVEY
LOT 1 BLOCK 2
CENTENNIAL SHORES SUBDIVISION NUMBER ONE
PLAT 85–157 KENAI RECORDING DISTRICT

DRAWN BY: JY	DATE: 7/1/2022	PROJECT: 22–555
CHECKED BY: RS	SCALE: AS SHOWN	SHEET: 1 OF 1

C:\Users\Jason Young\Documents\1–Active Jobs 2022 05 27\22–555 Char Vic – Ranguette ASB\DWG\22–555 Char Vic Ranguette ASB.dwg PLOTTED: 6/30/2022 9:11:27 PM

KPB 2022-100

Kenai Peninsula Borough Planning Department

Aerial View

KPB 2022-156V
10/19/2022



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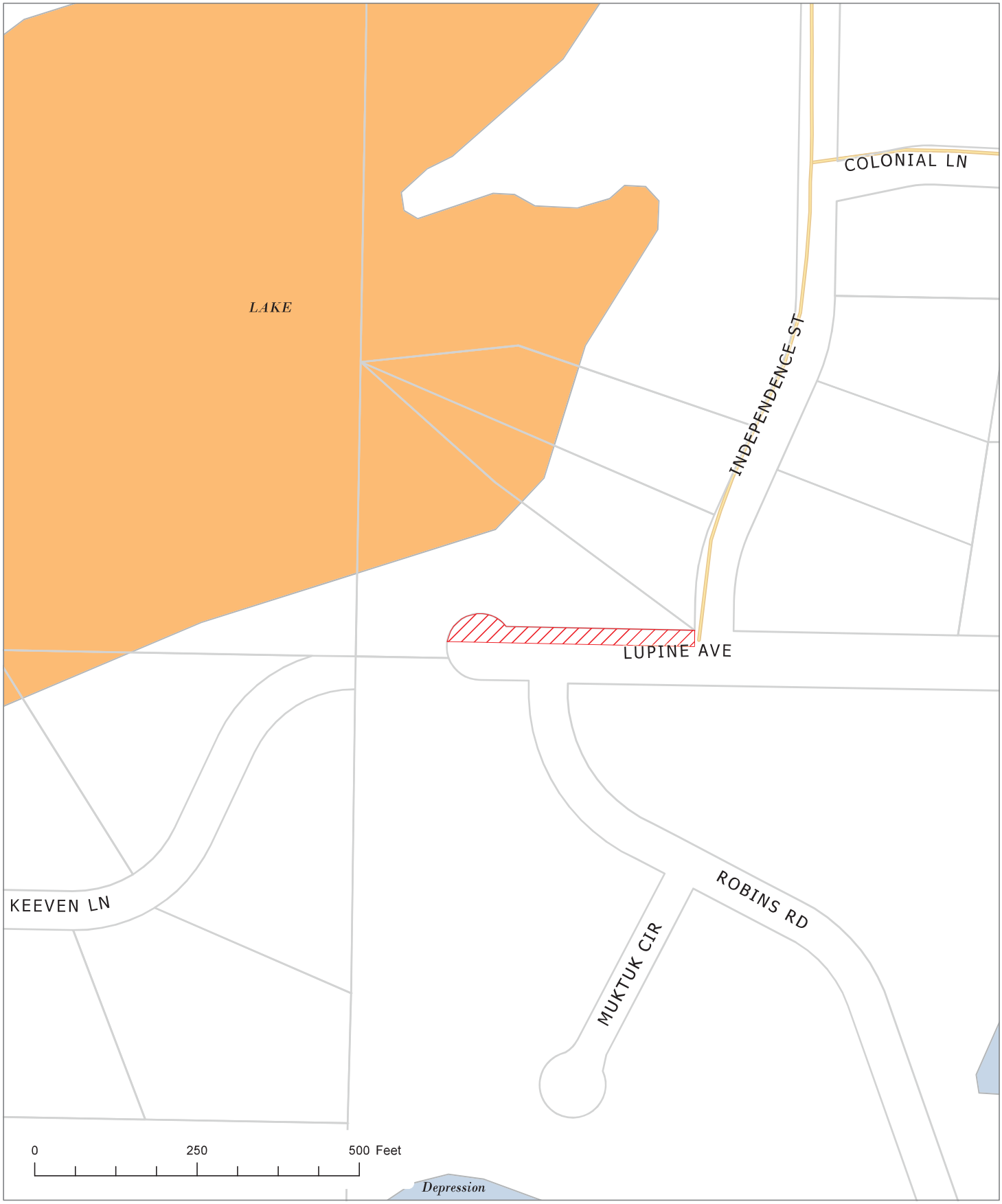
Kenai Peninsula Borough Planning Department

Wetlands

KPB File 2022-156V

10/19/2022



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Kenai Peninsula Borough Planning Department

Aerial with 5-foot Contours

KPB File 2022-156V

10/19/2022



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Hearing no objection or further discussion, the motion was carried by the following vote:
MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

ITEM E7 – BUILDING SETBACK ENCROACHMENT PERMIT
LOT 11B BLOCK 3, FERNWOOD 1977 SUBDIVISION HM 77-63

KPB File No.	2022-099
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	James Ferguson and Karen Jackman of Fritz Creek, Alaska
Surveyor:	Tom Latimer / Orion Surveys
General Location:	Highview Court, Glacier View Road, Fritz Creek area / Kachemak Bay APC

Parent Parcel No.:	172-190-35
Legal Description:	Fernwood 1977 Subdivision Lot 11B Block 3, HM 77-63
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Gillham moved, seconded by Commissioner Staggs to adopt PC Resolution 2022-33 granting a building setback encroachment permit to Lot 11-B, Block 3, Fernwood Subdivision Unit 3, Plat HM 77-17.

Commissioner Stutzer stated that he would be voting against approving this permit. He did not believe it was appropriate to build in the setback and then come and ask for a permit after the fact. When building, landowners need to have the properties surveyed to ensure that the structures they are building do not encroach into the setbacks or rights-of-way. Seeing that the encroachment is a carport he believes that it is possible to shorten the structure so it no longer encroaches into the setback.

Hearing no objection or further discussion, the motion was carried by the following vote:
MOTION PASSED BY MAJORITY VOTE:

Yes - 10	Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Tautfest, Venuti
No - 2	Brantley, Stutzer

ITEM E8 – BUILDING SETBACK ENCROACHMENT PERMIT
LOT 1 BLOCK 2 CENTENNIAL SHORES SUBDIVISION NUMBER ONE (KN 0850157)

KPB File No.	2022-099
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	Eric Ranguette of Soldotna, Alaska
Surveyor:	Jason Young, Ryan Sorensen / Edge Survey and Design LLC
General Location:	Lupine Avenue, Keeven Lane, Nikiski area

Parent Parcel No.:	013-281-24
Legal Description:	Centennial Shores Subdivision Number 1, Lot 1 Block 2, KN 85-157
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Martin moved, seconded by Commissioner Fikes to adopt PC Resolution 2022-39 granting a building setback encroachment permit to Lot 1, Block 2, Centennial Shores Subdivision Number One, Plat KN 85-157.

Commissioner Stutzer noted that he preferred staff option two, he would like to see a new subdivision opening the cul-de-sac and creating a new right-of-way dedication, so he will be voting not to approved the encroachment permit.

Commissioner Gillham asked staff if they knew what the cost of option two would be to the petitioner. Ms. Hindman replied that she could not say what the survey costs would be as they vary from surveyor to surveyor. The borough fees associated with a vacation and a replat, which would be required to fix the situation, would be $1300.00, which would be on top of the survey fees.

Commissioner Martin noted that cul-de-sacs were typically not to be opened, that they are much more difficult to vacate. He asked staff to elaborate on what it would take to vacate this cul-de-sac. Ms. Hindman replied that it would take the signatures of all landowners fronting on the cul-de-sac to open it up. In this situation this cul-de-sac is already being used as a throughfare to the west. It is also on top of a section line easement which people are using to access properties to the west. What staff would like to see is the vacation of portions of the cul-de-sac bulb, which would resolve the current issues of encroachments into the setbacks and utility easements, and to provide a continuation of the dedication. Commissioner Martin then stated based on that information he would be voting no on the motion.

Commissioner Horton stated the he believed it was more advantageous to make this cul-de-sac a connecting road, which is how it is currently being used. He then stated that he would be voting no on this motion.

Hearing no objection or further discussion, the motion was carried by the following vote:
MOTION FAILED BY MAJORITY VOTE:

Yes - 1	Hooper
No - 11	Brantley, Fikes, Gillham, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti

Ms. Hindman noted that KPB 20.10.110(h) notes that a decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 21.20.210 within 15 days of the notice of decision in accordance with KPB 21.20.250.

ITEM E9 - UTILITY EASEMENT ALTERATION
LOT 1 BLOCK 2 CENTENNIAL SHORES SUBDIVISION NUMBER ONE (KN 85-157)

KPB File No.	2022-101V
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	Eric Ranguette
Surveyor:	Jason Young, Ryan Sorensen / Edge Survey and Design LLC
General Location:	Lupine Avenue, Keeven Lane, Nikiski area

Staff report given by Platting Specialist Julie Hindman. She noted KPB 20.65.070(E) states that a planning commission decision under this section is final. No reapplication of a petition concerning the same alteration to a platted utility easement may be filed within one calendar year of the date of the final denial action, except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed. If the reasons for denial are resolved, the petitioner may submit a new petition for alteration or platted utility easement with documentation that the issues have been resolved, accompanied by a new fee. KPB 20.32.070(F) notes that an appeal of the planning commission decision under this section must be filed in the superior court in accordance with the Alaska Rules of appellate Procedure.

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public

comment was closed and discussion was opened among the committee.
MOTION: Commissioner Staggs moved, seconded by Commissioner Fikes to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

Commissioner Brantley asked staff if the applicant came back with a plat vacating the cul-de-sac and extending the 30-foot right-of-way, would that be consider a change of condition which would allow the petitioner to come back with these utility easement vacations. Ms. Hindman replied that yes, that would be a change in conditions. She also noted that depending on what changes are approved by the planning commission and then by the assembly the encroachment issue may no longer be valid.

Commissioner Staggs asked if the petitioner came back with the changes recommended by staff, could there still be a utility encroachment issue that would need to be resolved. Ms. Hindman replied that if after making the recommended changes and there was still an encroachment into the utility easement, they would need to file another petition to vacate and there would be an additional fee. However, it could be finalized by the other process and those fees could be absorbed by that process.

Hearing no objection or further discussion, the motion was carried by the following vote:
MOTION FAILED BY MAJORITY VOTE:

Yes – 2	Hooper, Venuti
No – 10	Brantley, Fikes, Gillham, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest

ITEM E10 - RIGHT OF WAY VACATION
Fritz Creek Acres Right of Way Vacation of Mushroom Street

KPB File No.	2022-095V
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	Edward Gamble and Barbara Gamble and Sealevel Inc all of Homer, AK
Surveyor:	Kenton Bloom/ Seabright Surveys
General Location:	Mushroom Street and East End Road / Fritz Creek / Kachemak Bay APC
Legal Description:	Mushroom Street associated with Fritz Creek Acres Subdivision, Plat HM 77-37, Homer Recording District, Section 28 Township 5S Range 12W S.M.

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the committee.

MOTION: Commissioner Venuti moved, seconded by Commissioner Fikes to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

Chair Brantley noted that he will be supporting this vacation request. He then stated that this is the type of right-of-way vacation that he likes to see.

Hearing no objection or further discussion, the motion was carried by the following vote:
MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

E. NEW BUSINESS

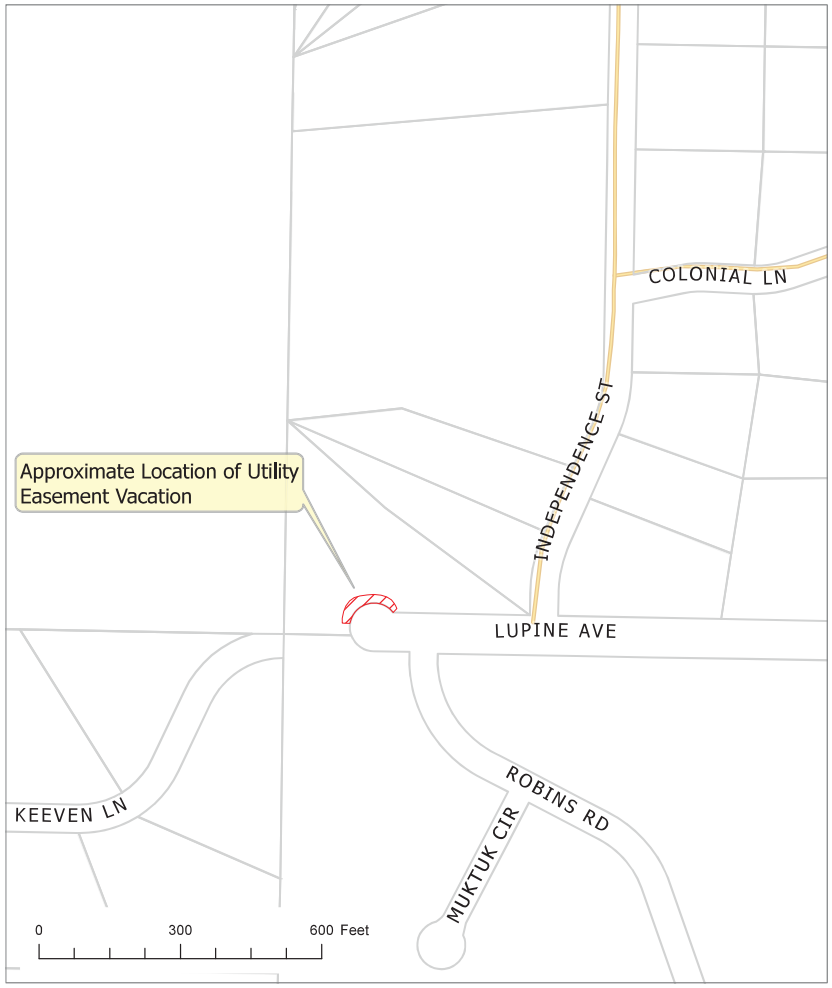
9. **Utility Easement Vacation; KPB File 2022-101V**
   PC Resolution 2022-40
   Lot 1, Block 2, Centennial Shores Subdivision Number One;
   Plat KN 85-157
   Edge Survey & Design / Ranquette
   Nikiski Area

AUGUST 8, 2022 PC MEETING MATERIALS

Kenai Peninsula Borough Planning Department

Vicinity Map

7/13/2022





KPB File # 2022-101V
S07 T07N R11W
Nikiski

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E3-18

Kenai Peninsula Borough Planning Department

Aerial Map

KPB File Number 2022-101V
7/13/2022



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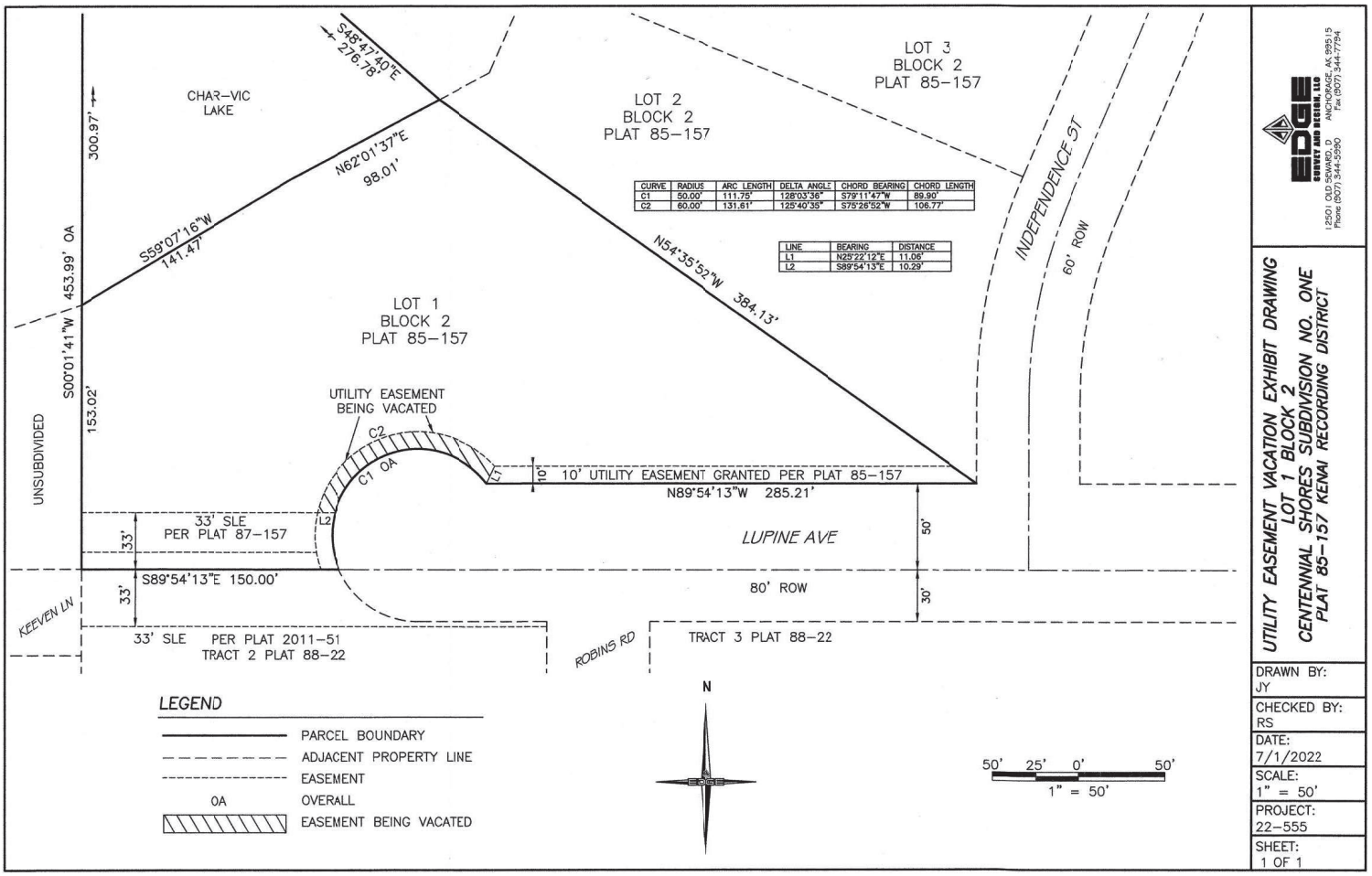
E3-19



CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	50.00'	111.75'	128°03'36"	S79°11'47"W	89.90'
C2	60.00'	131.61'	125°40'35"	S75°26'52"W	106.77'

LINE	BEARING	DISTANCE
L1	N25°22'12"E	11.06'
L2	S89°54'13"E	10.29'

KPB 2022-101V

E3-20

AGENDA ITEM E. NEW BUSINESS

ITEM 9 - UTILITY EASEMENT ALTERATION
LOT 1 BLOCK 2 CENTENNIAL SHORES SUBDIVISON NUMBER ONE (KN 85-157)

KPB File No.	2022-101V
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	Eric Ranguette
Surveyor:	Jason Young, Ryan Sorensen / Edge Survey and Design LLC
General Location:	Lupine Avenue, Keeven Lane, Nikiski area

STAFF REPORT

Specific Request / Purpose as stated in the petition: House was purchased without easement encroachment disclosed. House is encroaching into a non-utilized easement. All utility companies have signed off on vacation of partial easement.

Notification: Notice of vacation mailings were sent by regular mail to fifteen owners of property within 600 feet. Notice of the proposed vacation was emailed to twelve agencies and interested parties.

The public notice was posted on the Planning Department's bulletin board at the KPB Administration Building.

Staff Analysis: The property was originally subdivided by Centennial Shores Subdivision Number one, Plat KN 85-157. The plat created Lot 1 Block 2 as well as dedicated Lupine Avenue, originally named Dog Bone Avenue, as a 50 foot wide right-of-way that ended with a partial bulb as an existing roadway continued to the south. Utility easements were not depicted but plat note 4 stated "*The front 10' of the building setback will serve as a utility easement.*" The plat did not depict the setbacks but did state in plat note 2 that they were being created along the rights-of-way.

An as-built had been done on the property that indicated that portions of the house and its attached improvements are within the utility easement and the building setback. The sketch provided with this petition indicates the desire to vacate the entire 10 foot wide utility easement along the norther portion of the bulb. 10 foot wide utility easements will remain on the straight portion of Lupine Avenue. Section line easements coincide the dedication of Lupine Avenue and continue west past the cul-de-sac. It is stated that the easement is not currently in use. If the utility providers did a connection from Lupine Avenue to the west, permits may be requested from the Borough for use of the right-of-way and section line easements.

Staff worked with the KPB Assessing department to determine if the structures in question may have been built prior to the creation of the setback and utility easements. Records do indicate a structure was present before the creation of the setback and utility easement but the deck was improved after the utility easement was put into place. It is also unknown if any other improvements on the house were done prior or after.

The property to the south was originally subdivided by Robins Subdivision No. 1, KN 79-139. It did not dedicate any portion of Lupine Avenue but did indicate a section line easement was present. The property was then replatted by Kenai Timers, Plat KN 86-133, which was amended by KN 86-195. That plat vacated the original dedication of Robins Road and dedicated the new location as currently exists. The plat also dedicated the southern portion of Lupine Avenue by granting 30 feet to 33 feet of dedication. The plat indicates 30 feet at the western portion with 33 feet on the eastern portion with a 33-foot section line easement still in place. Kenai Timbers Replat, KN 88-22, was recorded which removed lot lines to create larger tracts but the dedications remained as granted by the parent plats.

The current configuration is a 80 to 83 foot wide right of way atop section line easements. The cul-de-sac bulb has been broke through to provide access to the properties to the west by the use of the section line easements. The owner has stated that they are requesting this as it is a less expensive option. Staff has no objection if the Planning Commission wishes to grant this exception but staff would rather see a plan to vacate the bulb, reduce the right-of-

way width only if needed to bring the lot into compliance with the setback, and have a dedication be granted over the existing travelway.

There are encroachments into the building setback and a separate petition has been received to be reviewed by the Planning Commission at the August 8, 2022 meeting.

Utility provider review:

HEA	No comments
ENSTAR	Approved as shown
ACS	No objections to the easement vacation as shown
GCI	Approved as shown.

Findings:

1. The petition states that the utility easement proposed to be vacated is not in use by a utility company.
2. ACS, ENSTAR, GCI, and HEA provided written non-objection to the proposed vacation.
3. Centennial Shores Subdivision Number One, KN 85-157, created 10 foot utility easements along dedicated rights-of-way.
4. A structure and its attached improvements are currently within the easement thus limiting is use.
5. The right-of-way width is 80 feet wide and is atop section line easements.
6. Lupine Avenue is an 80 foot wide dedicated right-of-way.
7. Lupine Avenue is constructed and in use but not maintained by the borough.
8. The encroachments are along a cul-de-sac but access continues through the bulb within the section line easements.
9. Majority of the road is in the lower part of the right-of-way and the driveway in the bulb of the right-of-way.
10. There does not appear to be any line of sight issues due to the clearing done in the area.

RECOMMENDATION:

Based on consideration of the merits as outlined by Staff comments and Staff findings, Staff recommends

1) To adopt Resolution 2022-40, subject to compliance with KPB 20.10.110 sections E and F and grant the utility easement permit.

2) To deny the utility easement permit and recommend petitioner return with a subdivision vacating a portion of Lupine Avenue, thereby moving and relocating the 20' building setback and also dedicating a portion of Lot 1 Block 2 Centennial Shores Subdivision No 1 85-157 on the southwesterly side as new roadway. This would begin to fix the issue of the roadway crossing and continuing west and connecting to Keeven Lane.

20.65.070 Alteration of platted utility easements

E. A planning commission decision under this section is final. A notice of decision shall be sent to the petitioner. No reapplication or petition concerning the same alteration to platted utility easement may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed. If the reasons for denial are resolved, the petitioner may submit a new petition for alteration of platted utility easement with documentation that the issues have been resolved, accompanied by a new fee.

F. An appeal of the planning commission decision under this section must be filed in the superior

court in accordance with the Alaska Rules of Appellate Procedure.

The 2019 Kenai Peninsula Borough Comprehensive Plan adopted November, 2019 by Ordinance No. 2019-25. The relevant objectives are listed.

Goal 3. Preserve and improve quality of life on the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services.

- *Focus Area: Energy and Utilities*
  - *Objective A - Encourage coordination or residential, commercial, and industrial development with extension of utilities and other infrastructure.*
    - *Strategy 1. Near – Term: Maintain existing easements (especially section line easements) in addition to establishing adequate utility rights of way or easements to serve existing and future utility needs.*
    - *Strategy 2. Near – Term: Maintain regular contact with utility operators to coordinate and review utility easement requests that are part of subdivision plat approval.*
    - *Strategy 3. Near – Term: Identify potential utility routes on Borough lands.*
- *Housing*
  - *Objective D. Encourage efficient use of land, infrastructure and services outside incorporated cities by prioritizing future growth in the most suitable areas.*
    - *Strategy 1. Near – Term: Collaborate with the AK Department of Transportation, incorporated cities within the borough, utility providers, other agencies overseeing local services, and existing communities located adjacent to the undeveloped areas that are appropriate for future growth, to align plans for future expansion of services to serve future residential development and manage growth.*

END OF STAFF REPORT

Kenai Peninsula Borough Planning Department

Aerial with 5-foot Contours

KPB File 2022-101V

7/13/2022

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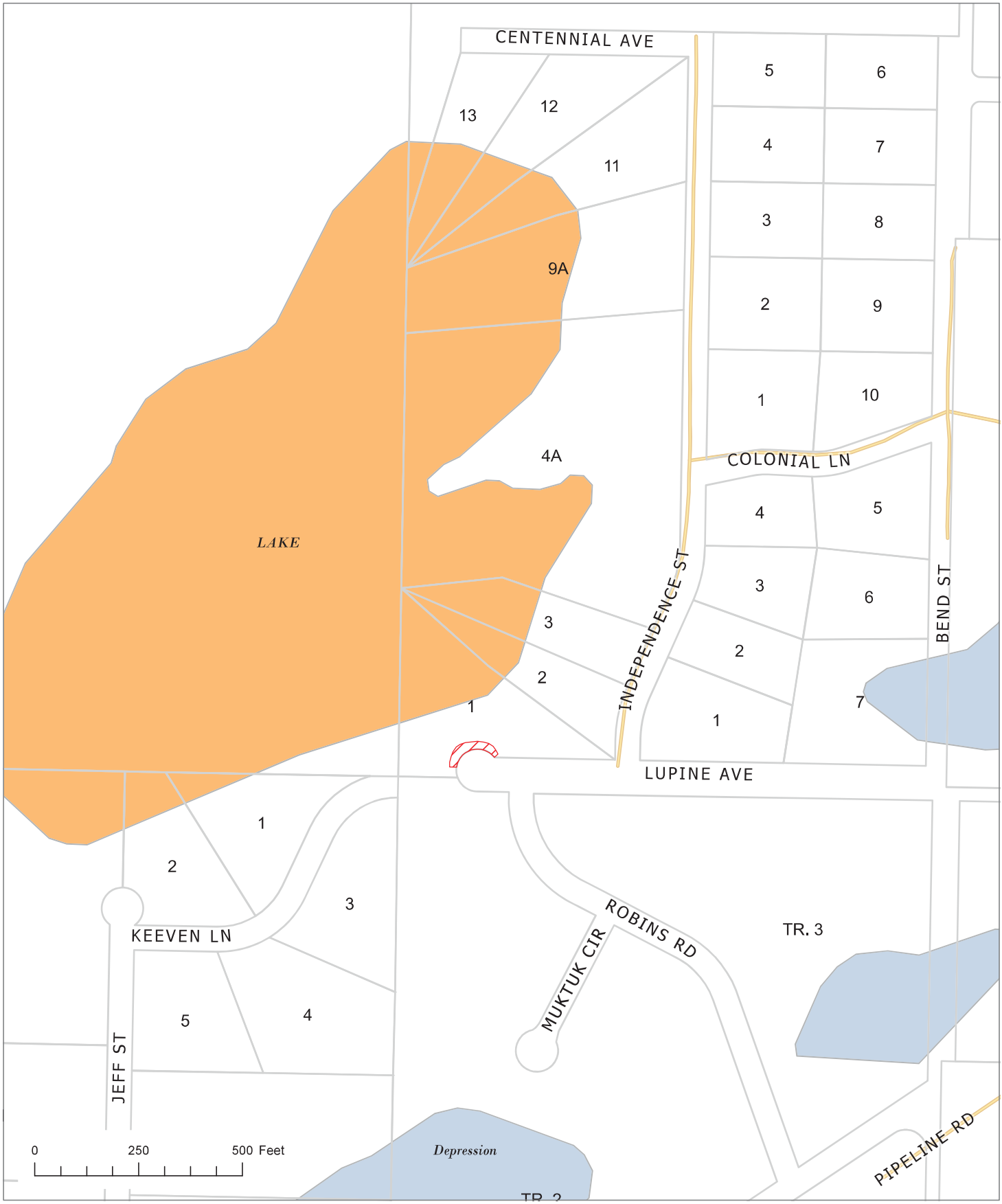
Kenai Peninsula Borough Planning Department

Wetlands

KPB File 2022-101V

7/13/2022



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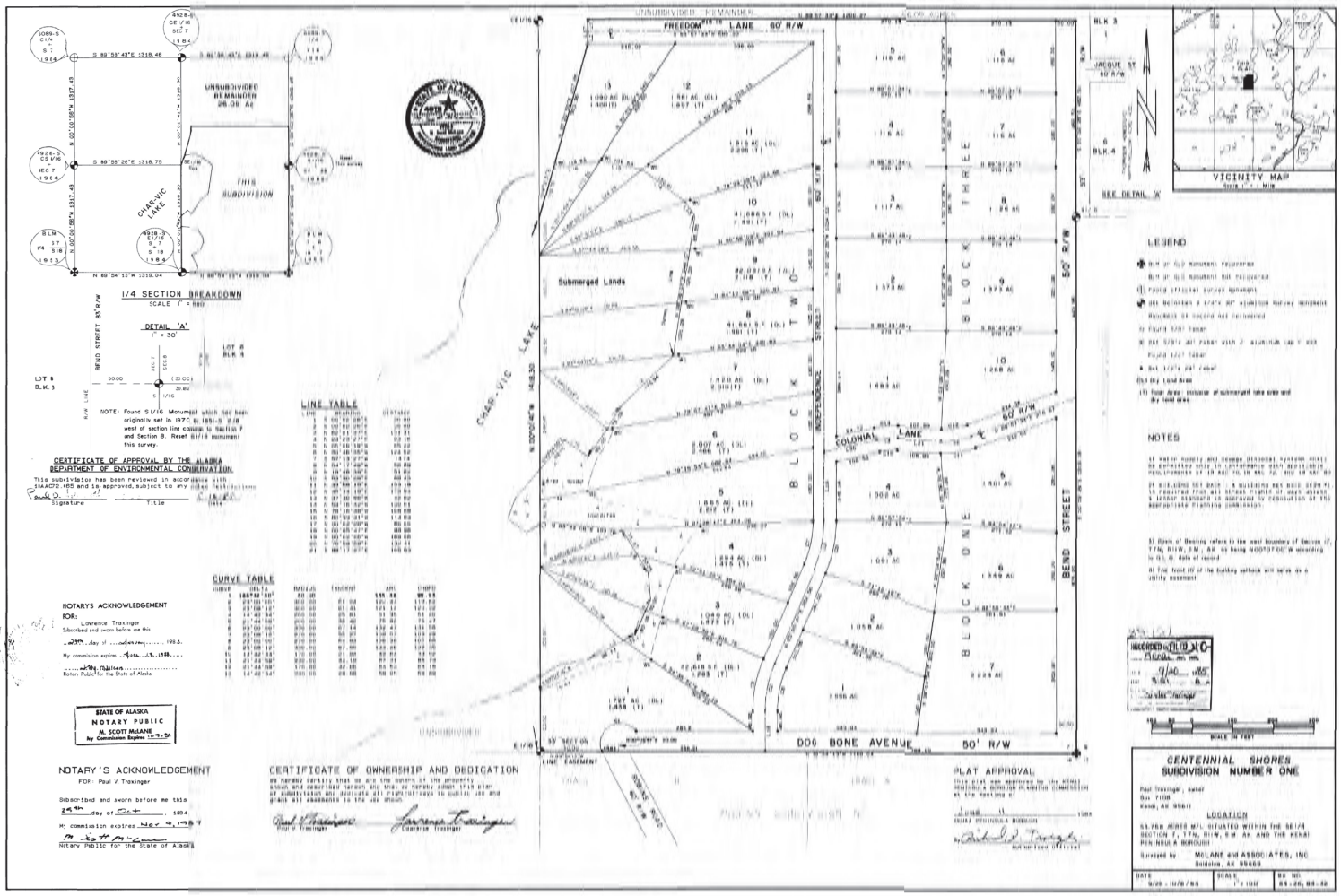


UNSUBDIVIDED REMAINDER
FREEDOM LANE 60' R/W
UNSUBDIVIDED REMAINDER 26.09 Ac
THIS SUBDIVISION
CHAR-VIC LAKE
1/4 SECTION BREAKDOWN
DETAIL 'A'
BEND STREET 83' R/W
LOT 8 BLK 4
LOT 1 BLK 3
NOTE: Found S1/16 Monument which had been originally set in 1970 to 1951-5 2/8 west of section line corner to Section 7 and Section 8. Reset S1/16 monument this survey.
CERTIFICATE OF APPROVAL BY THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
This subdivision has been reviewed in accordance with 18AAC72.165 and is approved, subject to any noted restrictions
Signature
Title
Date
LINE TABLE
CURVE TABLE
NOTARYS ACKNOWLEDGEMENT
FOR:
Lawrence Traxinger
Subscribed and sworn before me this
My commission expires
Notary Public for the State of Alaska
STATE OF ALASKA
NOTARY PUBLIC
M. SCOTT McLANE
by Commission Expires
NOTARY'S ACKNOWLEDGEMENT
FOR: Paul V. Traxinger
Subscribed and sworn before me this
Notary Public for the State of Alaska
CERTIFICATE OF OWNERSHIP AND DEDICATION
Paul V. Traxinger
Lawrence Traxinger
Submerged Lands
BLOCK TWO
BLOCK THREE
BLOCK ONE
COLONIAL LANE
BEND STREET
DOG BONE AVENUE 50' R/W
JACQUE ST 60' R/W
SEE DETAIL 'A'
VICINITY MAP
LEGEND
NOTES
PLAT APPROVAL
CENTENNIAL SHORES
SUBDIVISION NUMBER ONE
LOCATION
McLANE and ASSOCIATES, INC

E3-26

E. NEW BUSINESS

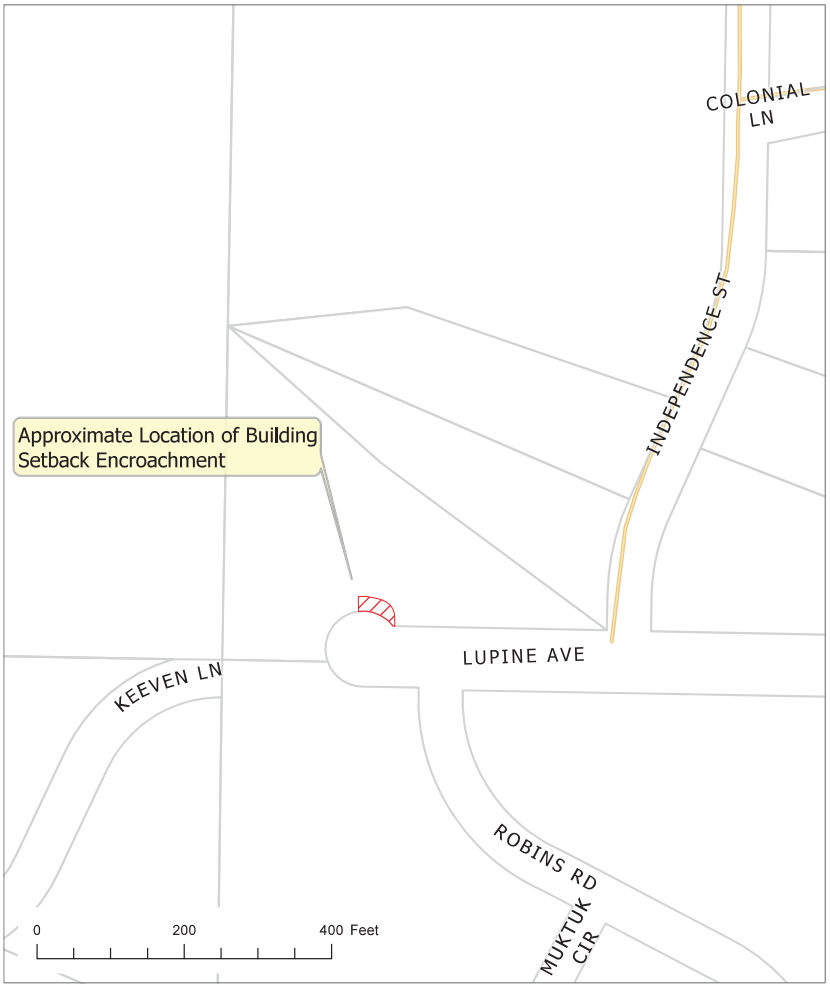
8. Building Setback Permit; KPB File 2022-100; PC RES 2022-39
Lot 1, Block 2, Centennial Shores Subdivision Number One; Plat KN 85-157
Edge Survey & Design / Ranquette
Nikiski Area

AUGUST 8, 2022 PC MEETING MATERIALS

Kenai Peninsula Borough Planning Department

Vicinity Map

7/13/2022





KPB File # 2022-100
S07 T07N R11W
Nikiski

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E3-28

Kenai Peninsula Borough Planning Department

Aerial View

KPB 2022-100
7/13/2022



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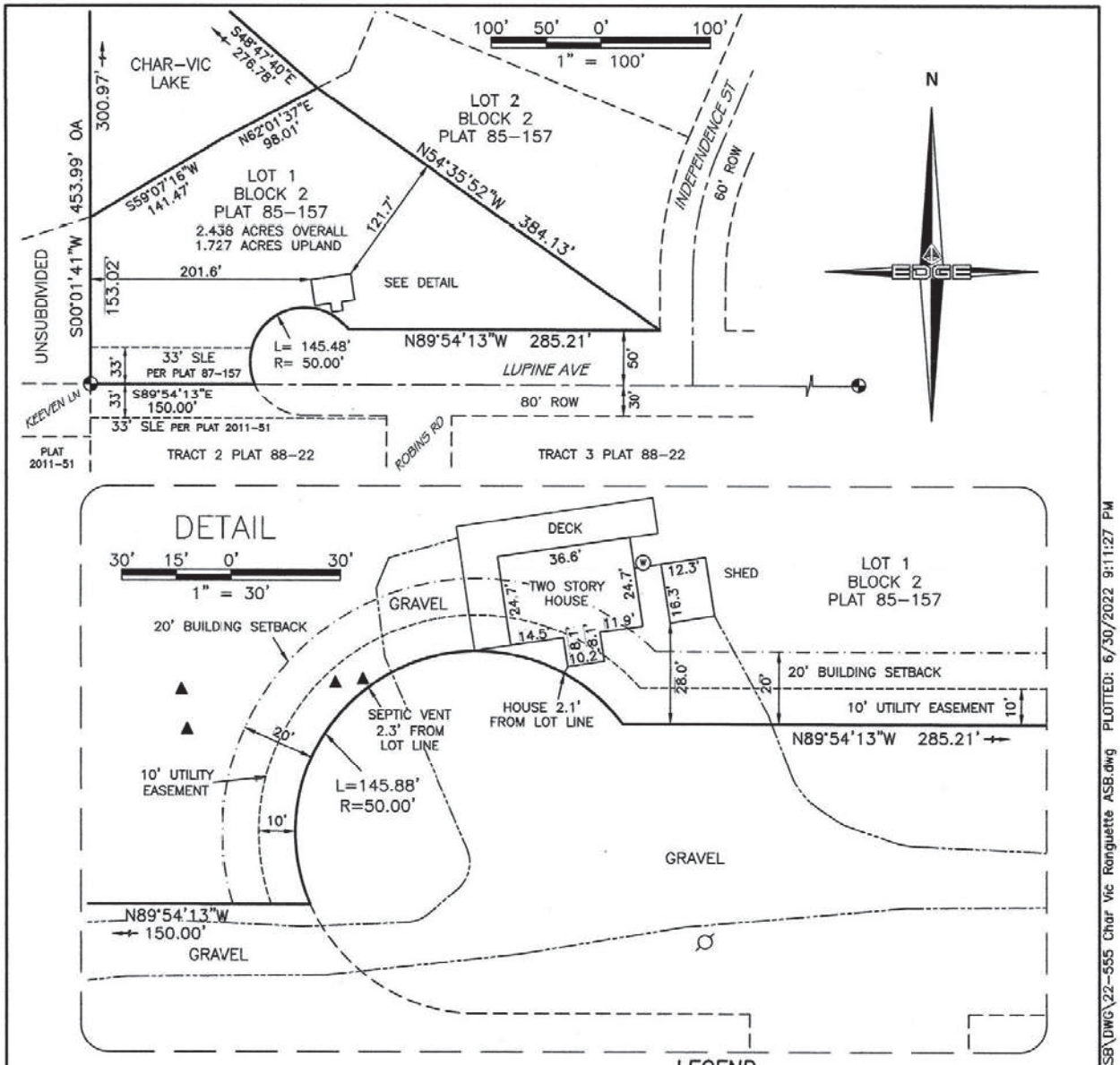

NOTES

THIS AS-BUILT SURVEY WAS PREPARED FOR MORTGAGE PURPOSES. RE-USE OF THIS DRAWING BY THE ORIGINAL CLIENT OR BY OTHERS, FOR ADDITIONAL USES AT A LATER DATE WITHOUT THE EXPRESS CONSENT OF EDGE SURVEY & DESIGN, LLC IS A VIOLATION OF FEDERAL COPYRIGHT LAW. UNLESS GROSS NEGLIGENCE IS DISCOVERED, THE LIABILITY EXTENT OF THE PREPARER SHALL BE LIMITED TO THE AMOUNT OF FEES COLLECTED FOR SERVICES IN PREPARATION OF THIS PRODUCT.

IT IS THE RESPONSIBILITY OF THE OWNER TO DETERMINE THE EXISTENCE OF ANY EASEMENTS, COVENANTS, OR RESTRICTIONS WHICH DO NOT APPEAR ON THE RECORDED SUBDIVISION. THIS AS-BUILT SURVEY, UNDER NO CIRCUMSTANCE, SHALL BE USED FOR CONSTRUCTION OR BOUNDARY LOCATIONS.

RECORD DATA SHOWN HEREON IS PER PLAT 85-157, KENAI RECORDING DISTRICT.

LEGEND

⊕	MONUMENT FOUND
▲	SEPTIC VENT
⊙	WELL
⌀	UTILITY POLE
———	PARCEL BOUNDARY
- - - - -	ADJACENT PROPERTY LINE
—·—·—	EDGE GRAVEL
----------	EASEMENT
—·—·—·—	SETBACK
SLE	SECTION LINE EASEMENT
UE	UTILITY EASEMENT
BLD SB	BUILDING SETBACK

SURVEYOR CERTIFICATE

I HEREBY CERTIFY THAT I HAVE PERFORMED AN AS-BUILT SURVEY ON THE PROPERTY SHOWN HEREON AND THE IMPROVEMENTS EXIST AS SHOWN. FIELD SURVEY 5/21/2022.

7/1/2022

RYAN SORENSEN
PLS 13006-S

STATE OF ALASKA 49TH
Ryan Sorensen
No. 13006 - S
7/1/2022
REGISTERED PROFESSIONAL LAND SURVEYOR

EDGE SURVEY AND DESIGN, LLC
12501 OLD SEWARD, D ANCHORAGE, AK 99515
Phone (907) 344-5990 Fax (907) 344-7794

AS-BUILT SURVEY
LOT 1 BLOCK 2
CENTENNIAL SHORES SUBDIVISION
NUMBER ONE
PLAT 85-157 KENAI RECORDING DISTRICT

DRAWN BY: JY	DATE: 7/1/2022	PROJECT: 22-555
CHECKED BY: RS	SCALE: AS SHOWN	SHEET: 1 OF 1

C:\Users\Jossn Young\Documents\1-Active Jobs 2022 05 27\22-555 Char Vic - Ranguette ASB\DWG\22-555 Char Vic Ranguette ASB.dwg PLOTTED: 6/30/2022 9:11:27 PM

KPB 2022-100

AGENDA ITEM E. NEW BUSINESS

ITEM 8. – BUILDING SETBACK ENCROACHMENT PERMIT
LOT 1 BLOCK 2 CENTENNIAL SHORES SUBDIVISION NUMBER ONE (KN 0850157)

KPB File No.	2022-099
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	Eric Ranguette of Soldotna, Alaska
Surveyor:	Jason Young, Ryan Sorensen / Edge Survey and Design LLC
General Location:	Lupine Avenue, Keeven Lane, Nikiski area

Parent Parcel No.:	013-281-24
Legal Description:	Centennial Shores Subdivision Number 1, Lot 1 Block 2, KN 85-157
Assessing Use:	Residential
Zoning:	Rural Unrestricted

STAFF REPORT

Specific Request / Purpose as stated in the petition: House was purchased without setback encroachment disclosed. Easier and less expensive option than vacating or moving cul-de-sac.

Site Investigation: Per the as-built and submittal the house along with portions of the deck are within the building setback. The location is along the cul-de-sac bulb so with the angle of the house along with the curve of the right-of-way the encroachment varies. It appears no portions are within the right-of-way although portions of the deck are very close. A portion of the house is 2.1 feet from the lot line thus encroaching 17.9 feet in that location. Septic vents are also present within the setback but per KPB Code, are allowed within the setback.

The encroachment is located on the bulb of Lupine Avenue, a 80 foot wide right-of-way. Lupine Avenue is cleared and in use but is not maintained by the borough. Borough road maintenance ends at the end of Independence Street when it intersects Lupine Avenue. Lupine Avenue continues through the cul-de-sac bulb trough this property and then connects to the 60 foot wide dedication of Keeven Lane. The lots using Lupine Avenue to access Keeven Lane should have other access from the south but the dedication are not complete and some go through wetlands. The dedication of Lupine Avenue coincides with section line easements. KPB GIS data indicates that it is 66 feet wide section line easements and these are being used for the connection between Lupine Avenue and Keeven Lane.

There do not appear to be any wetlands affecting the subject area or the right-of-way in this area. There are no steep slopes within the subject area or surrounding right-of-way.

There are no street views available for this area. Per the KPB GIS Imagery, the area is cleared as they enter onto their property and the right-of-way veers south slightly before continuing to the west. The distance from the travel way does not appear to create any sight issues.

Staff Analysis: The property was originally subdivided by Centennial Shores Subdivision Number one, Plat KN 85-157. The plat created Lot 1 Block 2 as well as dedicated Lupine Avenue, originally named Dog Bone Avenue, as a 50 foot wide right-of-way that ended with a partial bulb as an existing roadway continued to the south. Setbacks were not depicted but plat note 2 stated "*BUILDING SET BACK – A building set back of 20 ft. is required from all street rights of ways unless a lesser standard is approved by resolution of the appropriate Planning Commission.*"

Staff worked with the KPB Assessing department to determine if the structures in question may have been built prior to the creation of the setback and utility easements. Records do indicate a structure was present before the

creation of the setback but the deck was improved after the setback was put into place. It is also unknown if any other improvements on the house were done prior or after. For those reasons staff has drafted this to include all portions encroaching to make sure there is no confusion or issues in the future.

The plat also created 10 foot utility easements and a separate petition has been received to be reviewed by the Planning Commission at the August 8, 2022 meeting.

The property to the south was originally subdivided by Robins Subdivision No. 1, KN 79-139. It did not dedicate any portion of Lupine Avenue but did indicate a section line easement was present. The property was then replated by Kenai Timers, Plat KN 86-133, which was amended by KN 86-195. That plat vacated the original dedication of Robins Road and dedicated the new location as currently exists. The plat also dedicated the southern portion of Lupine Avenue by granting 30 feet to 33 feet of dedication. The plat indicates 30 feet at the western portion with 33 feet on the eastern portion with a 33 foot section line easement still in place. Kenai Timbers Replat, KN 88-22, was recorded which removed lot lines to create larger tracts but the dedications remained as granted by the parent plats.

The current configuration is a 80 to 83 foot wide right of way atop section line easements. The cul-de-sac bulb has been broke through to provide access to the properties to the west by the use of the section line easements. The owner has stated that they are requesting this as it is a less expensive option. Staff has no objection if the Planning Commission wishes to grant this exception but staff would rather see a plan to vacate the bulb, reduce the right-of-way width only if needed to bring the lot into compliance with the setback, and have a dedication be granted over the existing travel way.

Findings:

1. A building setback along Lupine Avenue was created by Centennial Shores Subdivision Number 1, KN 85-157.
2. Per the as-built portions of the deck are almost to the edge of the right-of-way.
3. Per the as-built portions of the house are 17.8 feet within the setback.
4. Lupine Avenue is an 80 foot wide dedicated right-of-way.
5. Lupine Avenue is constructed and in use but not maintained by the borough.
6. The encroachments are along a cul-de-sac but access continues through the bulb within the section line easements.
7. Majority of the road is in the lower part of the right-of-way and the driveway in the bulb of the right-of-way.
8. There does not appear to be any line of sight issues due to the clearing done in the area.
9. The Kenai Peninsula Borough Roads Department gave no comment.

20.10.110. – Building setback encroachment permits.

E. The following standards shall be considered for all building setback encroachment permit applications:

1. The building setback encroachment may not interfere with road maintenance.
Findings 4-8 appear to support this standard.

2. The building setback encroachment may not interfere with sight lines or distances.
Findings 4-8 appear to support this standard.

3. The building setback encroachment may not create a safety hazard.
Findings 4-8 appear to support this standard.

F. The granting of a building setback encroachment permit will only be for the portion of the improvement or building that is located within the building setback and the permit will be valid for the life of the structure or for a period of time set by the Planning Commission. The granting of a building setback permit will not remove any portion of the 20 foot building setback from the parcel.

G. The Planning Commission shall approve or deny a building setback encroachment permit. If approved, a resolution will be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to complete the permit. The resolution will require an exhibit drawing showing, and dimensioning, the building setback encroachment permit area. The exhibit drawing shall be prepared, signed and sealed, by a licensed land surveyor.

KPB department / agency review:

KPB Roads Dept. comments	No comment
SOA DOT comments	
KPB River Center review	A. Floodplain Floodplain Status: Not within flood hazard area Comments: No comments B. Habitat Protection Habitat Protection District Status: Is NOT within HPD Comments: No comments C. State Parks Comments: No Comments
State of Alaska Fish and Game	No comment
Addressing	Affected Addresses: 51200 LUPINE AVE Existing Street Names are Correct: Yes List of Correct Street Names: LUPINE AVE ROBINS RD INDEPENDENCE RD All New Street Names are Approved: No Comments: 51200 LUPINE AVE will remain with lot 1.
Code Compliance	It appears that a portion of the structure is in the 20' set back
Planner	There are not any Local Option Zoning District issues with this proposed plat. Material Site Comments: There are not any material site issues with this proposed plat.
Assessing	No comment
Advisory Planning Commission	

Utility provider review:

Addressing	
Code Compliance	
Planner	
Assessing	
Advisory Planning Commission	

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends**

1) To adopt Resolution 2022-39, subject to compliance with KPB 20.10.110 sections F and G and grant the building setback permit.

2) To deny the building setback permit and recommend petitioner return with a subdivision vacating a portion of Lupine Avenue, thereby moving and relocating the 20' building setback and also dedicating a portion of Lot 1 Block 2 Centennial Shores Subdivision No 1 85-157 on the southwesterly side as new roadway. This would begin to fix the issue of the roadway crossing and continuing west and connecting to Keeven Lane.

NOTE:

20.10.110.(H) A decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 20.90, within 15 days of the date of notice of decision in accordance with KPB 21.20.250.

END OF STAFF REPORT

Kenai Peninsula Borough Planning Department

Aerial with 5-foot Contours

KPB File 2022-100

7/13/2022



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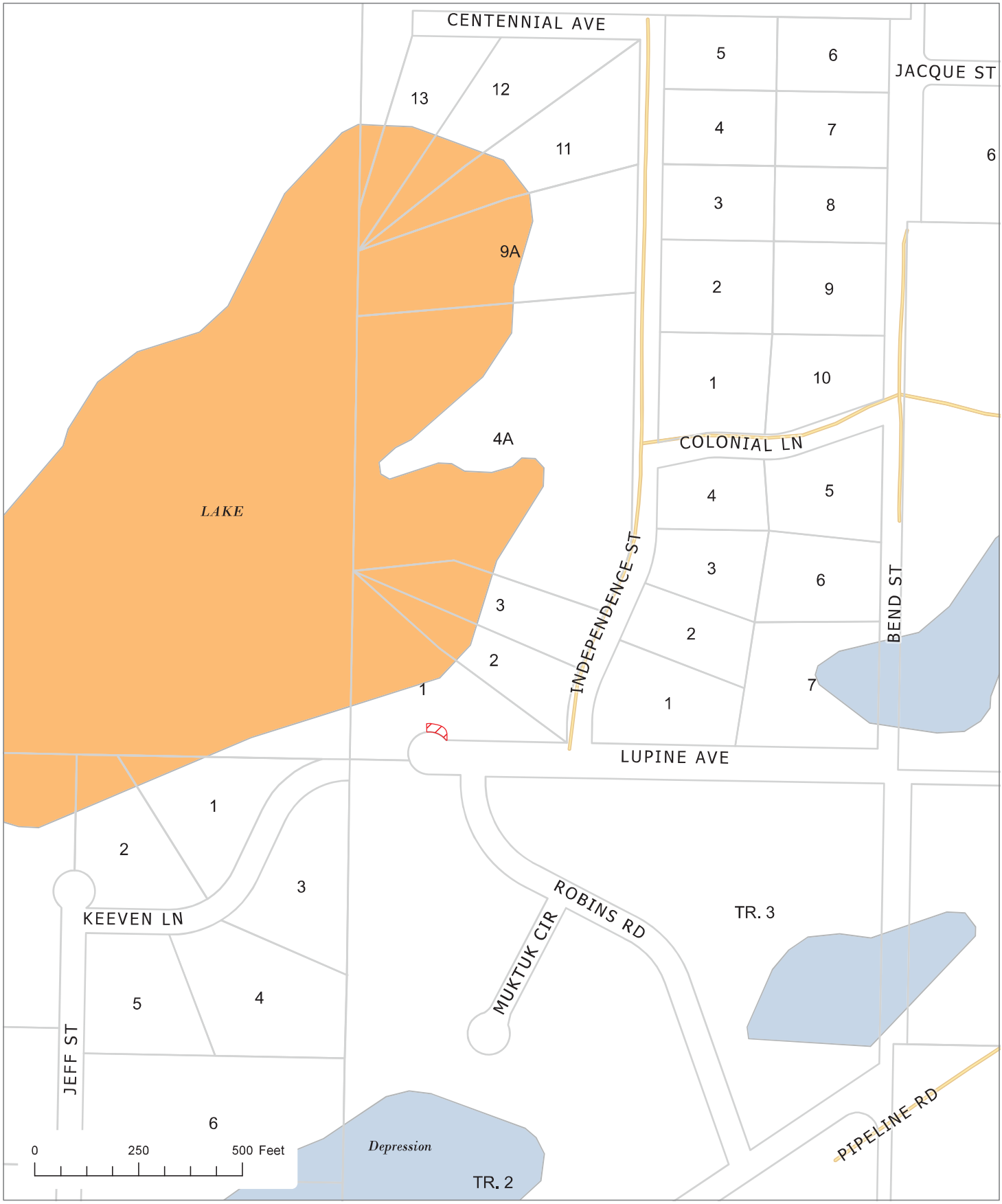
Kenai Peninsula Borough Planning Department

Wetlands

KPB File 2022-100

7/13/2022



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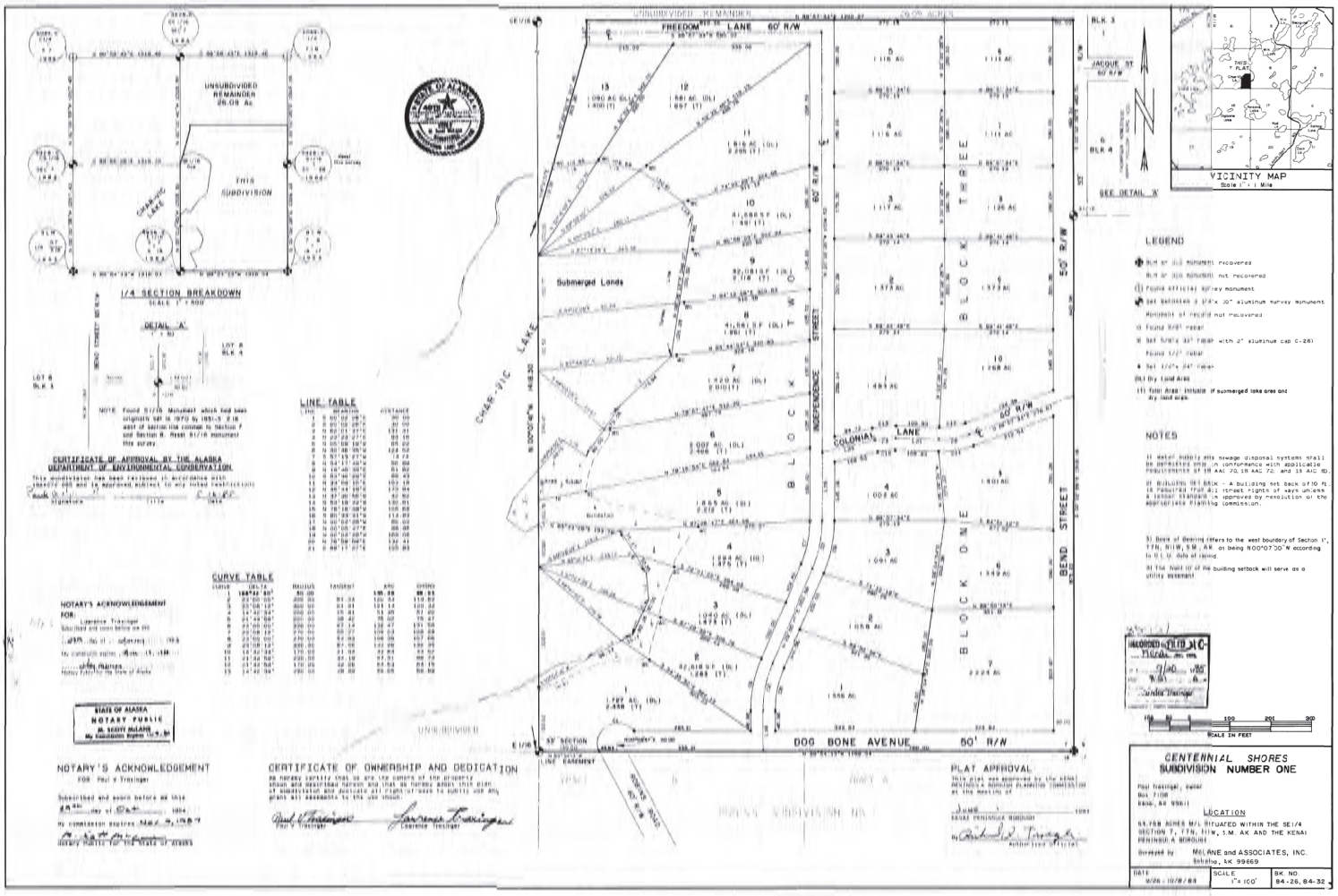

UNSUBDIVIDED REMAINDER 26.09 Ac
THIS SUBDIVISION
1/4 SECTION BREAKDOWN
DETAIL 'A'
CERTIFICATE OF APPROVAL BY THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
LINE TABLE
CURVE TABLE
NOTARY'S ACKNOWLEDGEMENT
STATE OF ALASKA
NOTARY PUBLIC
CERTIFICATE OF OWNERSHIP AND DEDICATION
FREEDOM LANE 60' R/W
Submerged Lands
CHAR-VIC LAKE
BLOCK TWO
BLOCK THREE
BLOCK ONE
INDEPENDENCE STREET
COLONIAL LANE
BEND STREET
DOG BONE AVENUE 50' R/W
JACQUE ST 60' R/W
SEE DETAIL 'A'
VICINITY MAP
LEGEND
NOTES
PLAT APPROVAL
CENTENNIAL SHORES
SUBDIVISION NUMBER ONE
LOCATION
McLANE and ASSOCIATES, INC.
Soldotna, AK 99669
SCALE 1"= 100'
BK. NO. 84-26, 84-32

E3-37

Planning Department
144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

PETITION TO VACATE PLATTED RIGHT OF WAY / PLATTED PUBLIC EASEMENT / PLATTED PUBLIC AREA

PUBLIC HEARING REQUIRED

Upon receipt of complete application with fees and all required attachments, a public hearing before the Planning Commission will be scheduled. The petition with all required information and attachments must be in the Planning Department at least 30 days prior to the preferred hearing date. By State Statute and Borough Code, the public hearing must be scheduled within 60 days of receipt of complete application.

Initially, a sketch may be included with the vacation petition for review by the Planning Commission. After the Planning Commission takes action on the vacation, a Subdivision Plat must be prepared by a licensed land surveyor. The plat will be processed in accordance with KPB 20.10.080. Platting authority is vested in the Planning Director.

SUBMITTAL REQUIREMENTS

A platted right of way vacation (ROWV) application will be scheduled for the next available planning commission meeting after a complete application has been received.

- [x] - $500 non-refundable fee to help defray costs of advertising public hearing. Plat fees will be in addition to the vacation fees.
- [ ] - City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
- [ ] Lupin Ave platted public right of way proposed to be vacated was dedicated by the plat of Centennial Shores SD No. 1 Subdivision, filed as Plat No. 85-157 in the Kenai Recording District.
- [x] - 3 copies of the plat or map showing the platted right of way to be vacated. Must not exceed 11 x 17 inches in size. Area to be vacated must be clearly depicted. Proposed alternative public access to be shown and labeled on the sketch.
- [x] - REASON FOR VACATING The petitioner must attach a statement with reasonable justification for the vacation of the platted right of way / platted easement / platted public area.

Has the platted right of way been fully or partially constructed?	✓	Yes		No
Is the platted right of way used by vehicles / pedestrians / other?	✓	Yes		No
Is alternative right-of-way being provided?	✓	Yes		No
Are there utility easements associated with the right of way to be vacated?	✓	Yes		No
Is the platted right of way and or associated utility easement in use by any utility company?		Yes	✓	No
If so, which utility provider?				

LEGAL DESCRIPTION ADJOINING LAND:

Lot, Block, Subd. or street address Centennial Shores SD No. 1 Block 2 Lot 1 Parcel ID 01321824	
Section, township, range T7N R11W Section 7	
City (if applicable)	General area Char-Vic Lake

The petition must be signed by owners of a majority of the land affected by the platted right of way proposed to be vacated. Each petitioner must include address and legal description of his/her property. Attach additional signature sheets if needed.

Submitted by:
Land Owner

Name (printed): Eric Ranguette	Signature ER
e-mail:	Address:
Owner of: Lot 1	

Land Owner:

Name (printed):	Signature
e-mail:	Address:
Owner of: Lot 1	

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RECEIVED BY _____ DATE SUBMITTED_____ KPB FILE #_____

Kenai Peninsula Borough
Office of the Borough Mayor

MEMORANDUM

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

FROM: Mike Navarre, Kenai Peninsula Borough Mayor MN

DATE: December 1, 2022

RE: Board of Equalization Appointment

In accordance with KPB 5.12.052, appointments from the borough to the Advisory Planning Commission are appointed by the Mayor and confirmed by the Assembly. The following appointments are forwarded to the Assembly for consideration and confirmation:

Board of Equalization – Seat B

- Dale Bagley – Term Expires 12/31/2025

Board of Equalization – Seat E

- Brent Johnson – Term Expires 12/31/2025

Thank you for your consideration.

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

TO: Mike Navarre, Borough Mayor

FROM: Michele Turner, Acting Borough Clerk

DATE: December 1, 2022

RE: Appointment to the Board of Equalization

The annual notice of vacancy for the Board of Equalization was advertised on November 8, 2022. The filing period closed on November 30, 2022.

KPB 5.12.052 states in part, "Members shall be appointed by the Mayor and confirmed by the Assembly on the basis of their expertise in real and personal property appraisal, the real estate market, the personal property market, and other fields related to their functions as board members. Additionally, each member shall be a resident of the Kenai Peninsula Borough. Assembly members may serve as members of the board of equalization, subject to appointment by the Assembly"

The following have applied for reappointment to the Board of Equalization:

Dale Bagley	Seat B	Term to Expire 12/31/2025
Brent Johnson	Seat E	Term to Expire 12/31/2025

All applications are attached for your consideration.

Thank you.

Blankenship, Johni

From: Kenai Peninsula Borough <webmaster@borough.kenai.ak.us>
Sent: Wednesday, November 16, 2022 5:02 AM
To: Blankenship, Johni; Turner, Michele
Subject: New submission from 'Board of Equalization Membership Application'

Seat Choice

Seat B – Term to Expire December 31, 2025

Name

Dale Bagley

Mailing Address

48278 Harmony ave

Mail_City

Soldotna

Mail_State

AK

Mail_Zip

99669

Residence Address

Res_City

Res_State

Res_Zip

Email

dalebagley@kw.com

Work Phone

{Work:value}

Home Phone

9073981865

Mobile

9073981865

Expertise

I have been a Realtor for most of the last 28 years, and have served on the BOE for 5 or 6 years.

UploadResume

{UploadResume:value}

Blankenship, Johni

From: Kenai Peninsula Borough <webmaster@borough.kenai.ak.us>
Sent: Thursday, November 10, 2022 4:17 PM
To: Blankenship, Johni; Turner, Michele
Subject: New submission from 'Board of Equalization Membership Application'

Seat Choice

Seat E – Term to Expire December 31, 2025

Name

Brent

Mailing Address

20773 Porcupine Lane

Mail_City

Clam Gulch

Mail_State

AK

Mail_Zip

99568

Residence Address

Res_City

Res_State

Res_Zip

Email

ragweb@icloud.com

Work Phone

{Work:value}

Home Phone

907-262-4763

Mobile

907-398-0918

Expertise

I worked for land surveyors from 1971 to about 2009. And served as survey party chief from 1973 to about 1977. I've served on the BOE for about two terms.

UploadResume

{UploadResume:value}

Kenai Peninsula Borough
Office of the Borough Mayor

MEMORANDUM

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

FROM: Mike Navarre, Kenai Peninsula Borough Mayor MN

DATE: December 1, 2022

RE: Anchor Point Advisory Planning Commission Appointment

In accordance with KPB 21.02.060, appointments from the borough to the Advisory Planning Commission are appointed by the Mayor and confirmed by the Assembly. The following appointments are forwarded to the Assembly for consideration and confirmation:

Anchor Point Advisory Planning Commission – Seat D:

- Joey Chamberlin - Term Expires 09/30/2025

Thank you for your consideration.

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

TO: Mike Navarre, Borough Mayor

THRU: Robert Ruffner, Planning Director

FROM: Michele Turner, Acting Borough Clerk

DATE: December 1, 2022

RE: Advisory Planning Commission Applications for Appointment

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The annual notice of vacancy for the Advisory Planning Commission Seats was advertised on August 1, 2022. The application period closed on August 30, 2022. Seats have remained open until filled.

Per KPB 21.02.060, the applicants listed below have been verified as:
1.) residents within the commission boundaries in which they are applying, and
2.) registered voters within the precincts covered by the commission boundaries.

The following applications are being submitted for your consideration.

ANCHOR POINT ADVISORY PLANNING COMMISSION

Joey Chamberlin Seat D

Thank you.

Kenai Peninsula Borough
Planning Department

Advisory Planning Commission Application Submitted 2022-11-18 22:14:37

APC/Seat: Anchor Point – Seat D (Term Expires 09/30/2025)

Name Joey Chamberlin	**Mobile Phone**
Home Phone	**Work Phone** 9072990145
Email shariostiart@hotmail.com	**Date of Birth** [redacted]
SSN	**Voter #**
Residence Address ,	**Mailing Address** PO Box 1328 aNCHOR Point, AK 99556
How long have you lived in the area served by this Advisory Planning Commission? 8 years	**What knowledge, experience, or expertise will you bring to this board?** I am a local Contractor

Kenai Peninsula Borough
Office of the Borough Mayor

MEMORANDUM

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

FROM: Mike Navarre, Kenai Peninsula Borough Mayor MN

DATE: December 1, 2022

RE: Resilience and Security Advisory Commission Appointment

In accordance with Ordinance 2020-25, appointments from the borough to the Advisory Planning Commission are appointed by the Mayor and confirmed by the Assembly. The following appointments are forwarded to the Assembly for consideration and confirmation:

Resilience and Security Advisory Commission -At-Large Seat (Borough Wide)

- Willow King – Term Expires 09/30/2023

Thank you for your consideration.

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

TO: Mike Navarre, Borough Mayor

THRU: Robert Ruffner, Planning Director

FROM: Michele Turner, Acting Borough Clerk

DATE: December 1, 2022

RE: Verification of Resilience and Security Advisory Commission Applicants

---

The annual notice of vacancy for the Resilience and Security Advisory Commission Seats was advertised on August 1, 2022. The application period closed on August 30, 2022. Seats have remained open until filled.

Per Ordinance 2020-25, appointed members shall have experience in at least one of the ten areas defining the scope of the commission. Sustainability commissioners shall submit a resume with their application to be appointed by the mayor and approved by the assembly.

The attached applications are submitted herewith for your consideration.

AT-LARGE SEAT (Borough-wide)

- Willow King Resident Address listed in Soldotna

cc: Land Management

Kenai Peninsula Borough
Planning Department

Resilience & Security Advisory Commission Application Submitted 2022-11-14 11:05:22

Seat: At-Large Seat (Borough-wide) Term Expires 09/30/2023

Name:
Willow King
Mailing Address:
P.O. Box 855 Kasilof, AK 99610
Residential Address (if different from mailing address):
48420 Moose Run Ave. Soldotna, AK 99669
Email:
chilledpadthai@aol.com
Mobile:
9073947413
{Work:caption}
{Work:value}
Home Phone:
Occupation or place of employment:
Self Employed
{HowLongLived:caption}
{HowLongLived:value}

In which of the 10 areas defining the scope of the commission do you have experience?

Divert materials that would otherwise be discarded in landfills within the borough to extend the lifetime of landfills and save taxpayer dollars;
* I have a lot of interest and passion for this area of work. My business, The Goods + Sustainable Grocery is a collection zone for the Pilot Plastic to Lumber project going on right now. I am willing to invest my time in seeing that this project gets scaled to the community sized level as quickly and efficiently as possible. I also have an earthship building project in Kasilof where my husband and I have been practicing building techniques with many, many reclaimed materials over the course of 15 years.

Improve cost and energy efficiency of buildings;
* I have a fair amount of knowledge surrounding more efficient heat capture/thermal mass/insulation building techniques. Storage of BTUs generated by operation of commercial equipment and/ or household appliances. Reclaimed building materials hold great promise as the cost of construction materials climbs ever higher.

Increase use of local, clean energy to (a) modernize electricity generation, storage and distribution; (b) increase energy independence; (c) diversify the grid and reduce supply volatility;
* I have no major experience in this realm excepting that my husband is a career electrician and has spent multiple years working on renewable energy installations. So I do have access to his knowledge base.

Support hazard mitigation planning that accounts for changing environmental conditions;
* I have interest in this discussion, not much tangible experience.

Improve food security through support of local agriculture, protection of the ecological integrity of fish and wildlife habitat, protection of water resources, and other means;
* Food security and building a sustainable local food culture is the passion of my life. Ecological Conservation of waterways and salmon habitat plays a close second. I grew up commercial fishing and have seen the decline of the Kenai River King Salmon and as a board member of Cook Inletkeeper, have dedicated much of my time to protecting our watershed and working on keeping salmon habitat intact.

Conduct cost-benefit analyses of sustainable resource inititatives;
* I have worked with several different nonprofits over the years and am at least familiar with overseeing large annual budgets and comprehending project proposals including financial projections

Actively engage and communicate with borough communities to develop and institute sustainable resource initiatives through community workgroups, task-forces, online media, etc.;
* Yes. This is something i actively engage with already.

Seek funding to support the work of the commission; and Other similar efforts focused on protection of our natural resources, economy, security and wellbeing.
* I am not very talented at procuring funding for my own small business startup but am happy to help communicate with possible funders and/or generate words to support funding applications.

{Expertise:caption}
{Expertise:value}
{CurrentlyServe:caption}
{CurrentlyServe:value}
{Available:caption}
{Available:value}
Comments (areas of interest, additional experience or qualifications, etc.):
As a mother of 3 Third generation Soldotnans, I have a vested interest in seeing our community thrive in a resilient, sustainable way. I have dedicated much of my adult life to working on many of the areas within the scope of this commission. Many thanks

Kenai Peninsula Borough
Office of the Borough Mayor

MEMORANDUM

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

FROM: Mike Navarre, Kenai Peninsula Borough Mayor MN

DATE: December 1, 2022

RE: Service Area Board Appointments

In accordance with KPB Title 16, appointments from the borough to the Advisory Planning Commission are appointed by the Mayor and confirmed by the Assembly. The following appointments are forwarded to the Assembly for consideration and confirmation:

East Peninsula Highway Emergency Service Area Board – Seat B

- Clay Adam – Term Expires 10/2025

Kachemak Emergency Service Area Board – Seat D

- Randall Blad – Term Expires 10/2025

North Peninsula Recreation Service Area Board – Seat D

- Erin Bellotte – Term Expires 10/2024

Thank you for your consideration.

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

TO: Mike Navarre, Borough Mayor

FROM: Michele Turner, Acting Borough Clerk

DATE: December 1, 2022

RE: Verification of Service Area Board Applicants

A notice of vacancy for service area board seats was advertised on November 1, 2022. The application period closed on November 22, 2022.

Pursuant to KPB Title 16, the applicants below have been verified as registered voters of the Borough and reside within the service area listed.

The applications are being submitted for your consideration.

EAST PENINSULA HIGHWAY EMERGENCY SERVICE AREA BOARD

Clay Adam Seat B

KACHEMAK EMERGENCY SERVICE AREA BOARD

Randall Blad Seat D

NORTH PENINSULA RECREATION SERVICE AREA BOARD

Erin Bellotte Seat D

Bruce Milne Seat D

Thank you.

Kenai Peninsula Borough
Office of the Borough Clerk

Service Area Board Application Submitted 2022-11-14 16:36:05

Service Area: East Peninsula Highway Emergency, Seat B (Term Expires 10/2025)

Applicant Name	**Daytime Phone**
Clay Adam	5126954499
Email	**Date of Birth**
clayadam@cooperlandinges.org	[redacted]
Physical Residence Address	**Mailing Address**
18231 Sterling Highway Cooper Landing, AK 99572	,
SS #	**Voter #**
I have been a Resident of the Kenai Peninsula Borough for:	**I have been a Resident of the selected Service Area for:**
3 years, 0 months	3 years, 0 months
What knowledge, experience, or expertise will you bring to this board?	
I am currently Deputy Chief, Cooper Landing Emergency Services. I am very familiar with the EPHESA service area and its primary responsibility.	

Kenai Peninsula Borough
Office of the Borough Clerk

Service Area Board Application Submitted 2022-11-09 09:34:18

Service Area: Kachemak Emergency, Seat D (Term Expires 10/2025)

Applicant Name	**Daytime Phone**
Randall Blad	907 756 3161
Email	**Date of Birth**
randyblad@gmail.com	[redacted]
Physical Residence Address	**Mailing Address**
36353 Wild Haven Road Fritz Creek , Alaska 99603	,
SS #	**Voter #**
I have been a Resident of the Kenai Peninsula Borough for:	**I have been a Resident of the selected Service Area for:**
7 years, 6 months	7 years, 0 months

What knowledge, experience, or expertise will you bring to this board?

Former real estate and development manager for Beechcraft/Textron aviation where I aided in the design of fire protection systems.

Kenai Peninsula Borough
Office of the Borough Clerk

Service Area Board Application Submitted 2022-11-05 08:06:22

Service Area: North Peninsula Recreation, Seat D (Term Expires 10/2024)

Applicant Name	**Daytime Phone**
Erin Bellotte	214-842-1247
Email	**Date of Birth**
erin.bellotte@gmail.com	[redacted]
Physical Residence Address	**Mailing Address**
51520 Blockade Glacier Road Kenai, AK 99611	,
SS #	**Voter #**
I have been a Resident of the Kenai Peninsula Borough for:	**I have been a Resident of the selected Service Area for:**
1 years, 2 months	1 years, 2 months

What knowledge, experience, or expertise will you bring to this board?

Dear Selection Committee,
Please consider my application for the open seat on the North Peninsula Recreation Service Area Board, posted on the Kenai Peninsula Borough website.
In August of 2021, I moved from Texas, to Nikiski, Alaska with my husband and two daughters. We have thoroughly enjoyed our first year in the Kenai Peninsula. As a way to give back to our community, I have developed an interest in sharing my education, professional experience and personal interest in health and wellness with the NPRSA.
These professional and personal accomplishments include:
- Current employment with Professional Growth Systems, a business consulting firm out of Anchorage that supports Alaskan businesses with strategic planning, continuous improvement and executive coaching.
- Held increasing leadership roles at Halliburton Energy Services from 2012 – 2021; with my most recent role being the Manufacturing C[redacted]r for the Houston, TX facility. In this role, I lead 200+ employees to reach monthly shipment targets of $15M per month, housed the global warehouse carrying $300M in inventory and reduced gross expense by $2M per month.
- Created the first employee-led Wellness Subcommittee at Halliburton's Carrollton, TX facility, engaging over 1K employees in wellness challenges from walking, hydration, and weight loss. This subcommittee expanded to four other facilities and continues to engage employees in cross facility health and wellness competitions.
- Graduate Assistant Soccer Coach for Indiana State University and obtained a United States Soccer Federation "C" License for coaching youth soccer. I have planned / coached youth soccer camps and volunteer coached in multiple locations with my most recent volunteer experience with NPRSA Indoor Soccer this past spring.
- Education: Master's of Business Administration, Indiana State University, Terre Haute, IN: May 2010
Bachelor of Science in Business Administration, Valparaiso University, Valparaiso, IN: May 2008

For further information on my professional career, I have sent my resume to the email listed on your website: assemblyclerk@kpb.us.
I look forward to further discussing my qualifications and helping to serving the North Peninsula Service Area to provide healthy year-round activities the entire family can enjoy.
Sincerely,
Erin Bellotte, M.B.A.
Erin.bellotte@gmail.com
(214-842-1247)

Erin Bellotte
Erin.Bellotte@gmail.com
51520 Blockade Glacier Road, Kenai, AK 99611
214-842-1247

Strategy and Operations Manager

Experienced Strategy and Operations Manager, focused on driving operational excellence with a passion for strategy development for the broader marketing and international org. Detailed and results-oriented, adept in collaborating with key stakeholders to deliver continuous improvements, and employee development. Expertise and pride in redesigning a process to make it better with repeated success in leading teams.

Areas of Expertise

- Budget Administration
- Strategic Planning
- Building Relationships
- Program Start-up
- Strong Analytical Skills
- Staff Training and Team Leadership
- Stakeholder Communications
- Regulatory and Legal Compliance
- Employee Engagement
- Resource Allocation
- Process Improvement
- Marketing

Professional Experience

Professional Growth Systems: August 2021 - Present
Senior Consultant, in Nikiski, AK

- Researched and wrote winning Request for Proposals for year-long projects. Coordinated winning contract project management with CEO and Senior Leadership, to ensure clients are aligned with targeted KPIs.
- Conduct data analysis from clients on opportunities for improvement and work with employee project teams to define key KPI for project success.
- Manage project financial outcome to Professional Growth Systems to ensure labor and expenses remain within project budget.
- Utilization of Google Office Suite to collaborate with colleagues remotely, share knowledge and data analysis, develop presentations for C-Suite to clients and monitor project success.

Halliburton Energy Services Inc.: 2012 – July 2021
Manufacturing Center Manager, in Houston, TX: May 2020 – July 2021

- Lead team to develop and execute strategic initiatives, with alignment to broader Halliburton strategy as well as product line specific and global manufacturing performance standards. Present facility strategic objectives and implementation plans to Halliburton senior management teams. Define and deliver communication plan to employee base, and key stakeholders for successful change management.
- Responsible for the safety, quality, production operations, talent development and financial impact for oilfield manufacturing of complex downhole tools that provide real time data and automated drilling solutions for our customers.
- Direct oversight of 5 functional managers and indirect oversight of 200 employees spanning production, quality, engineering, procurement, warehouse and logistics, and continuous improvement departments.
- Financial responsibility for achieving and reporting monthly, quarterly and annual metrics with an average monthly gross expense budget of $3.2M per month, shipment outputs of $15M, incoming receipts of $12M and management of a global inventory hub carrying $200M in consumables at customer request.
- Communicate and collaborate with cross-functional stakeholders to understand problems to drive operational results towards the execution of strategic initiatives, setting stretch targets and leading / lagging measures to gauge progress. Strong emphasis on continuous improvement and lean manufacturing methodology to utilize Value Stream Mapping, Kaizen Events and Managing for Daily Improvement for

sustainable step changes towards annual targets.
- Champion and sponsor in multi-site employee development process to mentor and rate employees on key competencies for the manufacturing organization, creating a pipeline of leaders for succession management.

Business Unit Manager, Wireline and Perforating Manufacturing in Alvarado, TX: October 2019 – May 2020
- Lead 4 uniquely different manufacturing product lines for Wireline and Perforating downhole tools. Product lines included high volumes of explosive powder, and radioactive material. Required to make production decisions that aligned safety protocols, compliance to several different regulating bodies, and driving a safety culture of process adherence, employee engagement and stop work authority.
- Analyzed complex data to drive decision making that lead to successfully doubling production capacity of Velocity Perforating Guns from 18K per month to 37K per month from November 2019 to March 2020 without stocking out to miss customer job requirements. Realignment of production team to reduce expenses during decrease in market activity that dropped monthly production from 37K to 1K perforating guns per month during April – June.
- Site coordinator for Supply Chain Management Program, role is to mentor and provide feedback to recent college graduates working through a rotational leadership program. Facilitate onboarding of employees with leadership to identify operational and safety projects for participants to complete during rotation at the site. Ensure participant is achieving metrics and ready to present to Halliburton Senior Management at quarterly reviews.

Continuous Improvement and QAQC Manager, Wireline and Perforating Manufacturing in Alvarado, TX: October 2018 – September 2019
- Drove continuous improvement activities starting with annual strategy planning session for the site and provided strategy training for leaders prior to the session, development of brainstorming activities to reemphasize key training during metric setting and breakout sessions to ensure all voices and ideas are heard for agreement in final strategies.
- Restructured system of accountability for strategic actions utilizing the Four Disciplines of Execution methodology. Established weekly 15-minute meeting to review success of previous week's actions and leadership commitment to next week's actions. Monitored and challenged actions against leading and lagging metrics set by the team in strategy planning sessions.
- Collaborated with Warehouse Manager on plan to streamline shipment of explosive materials through expected ramp up of production domestic and globally. Project included deep dive review of partners, training on hazardous shipment requirements, cost savings and volume analysis.
- Accountable for successful API Q1 Re-Certification audit, with implementation of API Addendum 2 requirements which required new partner and existing vendor evaluations. Empowered quality team to lead site-wide internal audits, implement corrective and preventative actions from root cause analysis on quality escapes and complete required in-process inspections.

Sr. Production Group Leader, Wireline Manufacturing in Alvarado, TX: November 2017 – September 2018

Ensured the safety of my team through toolbox talks, HOC/BBP review and discussion, and incident reporting. Provide feedback and coaching for quality issues as they arise and monitor on-time delivery execution. Reconcile costs charged to the cost center and keep indirect costs to a minimum. Verify employee learning and competencies are current and develop team as necessary for company success.

Sabbatical: July 2016 – November 2017

Stepped away from the organization in 2016 to support my husband's career relocation to Bakersfield, CA

Production Group Leader, Completion Tools Manufacturing in Carrollton, TX: September 2014 – July 2016

Direct oversight of 40 employees, spanning three shifts and eighteen CNC machines. Core function was to ensure the on-time delivery of machined parts to the next operation. Utilized system programs to identify upcoming production challenges and created solutions to continue on-time production. Established Managing for Daily Improvement board at team level, to quickly identify and address production delays with the team each morning and escalate issues to the next level of management as needed.

Admin. Specialist, Third Party Inspector Coordinator, Completion Tools Manufacturing in Carrollton, TX: August 2012 – September 2014

Coordinate with the QAQC inspectors in the manufacturing shop and Third-Party Inspectors (TPI) to ensure all customer required special processes are met. Special processes may occur at any point during manufacturing,

starting at raw material and ending with the crating and shipment of parts. Communicate with Production Group Leaders and Business Unit Managers, regarding prioritization of TPI scheduling. Close working relationships with TPIs allow for requesting changes to their planned schedules to accommodate customer or shipment priority.

University of North Texas: 2010 - 2012

Admin. Coordinator, Toulouse Graduate School, in Denton, TX: August 2010 – August 2012

Direct oversight of three separate scholarship budgets totaling over 6 million dollars. The largest budget funded over 800 different graduate students through 6 different scholarship programs. Responsibilities included monthly balance sheet reconciliation for each budget, forecasting budget expenditures and verification of students account summaries. Scholarship students with outstanding balances were contacted to ensure timely payment of their tuition and fees.

Accolades and Training

Manufacturing H1 2020 Top Collaboration Award Winner
Manufacturing H2 2019 Top Manufacturing Business Unit
Business Leadership Development 1 sponsored through Texas A&M - Summer 2018
Business Leadership Development 2 sponsored through Texas A&M - Summer 2019
Halliburton Lean Bronze Training Level 1 and 2

Education

Masters of Business Administration, Indiana State University, Terre Haute, IN: May 2010

Bachelor of Science in Business Administration, Valparaiso University, Valparaiso, IN: May 2008

Kenai Peninsula Borough
Office of the Borough Clerk

Service Area Board Application Submitted 2022-11-12 17:09:09

Service Area: North Peninsula Recreation, Seat D (Term Expires 10/2024)

Applicant Name	**Daytime Phone**
Bruce Milne	907 251 0602
Email	**Date of Birth**
Brucewmilne@gmail.com	[redacted]
Physical Residence Address	**Mailing Address**
52045 Admiralty Drive Nikiski, AK 99611	PO Box 8372 Nikiski, AK 99635
SS #	**Voter #**
	[redacted]
I have been a Resident of the Kenai Peninsula Borough for:	**I have been a Resident of the selected Service Area for:**
1 years, 2 months	1 years, 2 months

What knowledge, experience, or expertise will you bring to this board?

I have lived in Alaska since 1990, serving 22 years in Federal law enforcement and 8 years in local law enforcement (City of North Pole). I ran the Yukon Quest as a musher 5 times and the Iditarod once. I have an MBA from Boston University and I am a USMC veteran

Kenai Peninsula Borough
Office of the Borough Mayor

MAYOR'S REPORT TO THE ASSEMBLY

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

FROM: Mike Navarre, Kenai Peninsula Borough Mayor

DATE: December 01, 2022

Assembly Request / Response

None

Agreements and Contracts

Authorization to Award a Contract for ITB23-011 Sport Lake Rd / Hakala Dr / Cotman Ct Gravel CIP

Authorization to Award a Contract for ITB23-025 Central Peninsula Landfill Brush Burning

Authorization to Award a Contract for RFP23-004 Gravel Road Design FY23

Authorization to Award a Contract for ITB23-013 Kenai, Nikiski, Sterling Transfer Facilities Operation & Maintenance 2023

Authorization to Award a Contract for ITB23-012 Seward Transfer Facilities Operation & Maintenance 2023

Other

Tax Adjustment Request Approval

Investment Report Quarter Ended 9/30/22

Budget Revisions – October 2022

Revenue-Expenditure Report – October 2022

DocuSign Envelope ID: 29E8E768-DD7D-48D1-9488-A05277D038F1

Kenai Peninsula Borough
Purchasing & Contracting

MEMORANDUM

TO: Mike Navarre, Mayor

THRU: John Hedges, Purchasing & Contracting Director JH

THRU: Dil Uhlin, Road Service Area Director DU

FROM: Andrew Walsh, Project Manager AW

DATE: November 8, 2022

RE: Authorization to Award a Contract for ITB23-011 Sport Lake Rd / Hakala Dr / Cotman Ct Gravel CIP

The Purchasing and Contracting Office formally solicited and received bids for the ITB23-011 Sport Lake Rd / Hakala Dr / Cotman Ct Gravel CIP. Bid packets were released on August 23, 2022 and the Invitation to Bid was advertised in the Peninsula Clarion on August 23, 2022.

> This project consists of furnishing all labor, materials and equipment to upgrade Sport Lake Rd / Hakala Dr / Cotman Ct. Work includes but is not limited to roadbed widening, subgrade modification, embankment construction, drainage, ditching and clearing.

On the due date of September 13, 2022, three (3) bids were received and reviewed to ensure that all the specifications and delivery schedules were met. The low bid of $514,915.00 was submitted Foster Construction LLC, Soldotna, AK.

Your approval for this bid award is hereby requested. Funding for this project is in account number 434.33950.C5SPO.43011.

Mike Navarre

Mike Navarre, Mayor

11/10/2022

Date

NA

FINANCE DEPARTMENT
FUNDS VERIFIED

Acct. No. 434.33950.C5SPO.43011

Amount $514,915.00

By: CJ BH Date: 11/9/2022

DocuSign Envelope ID: 29E8E768-DD7D-48D1-9488-A05277D038F1

KENAI PENINSULA BOROUGH
PURCHASING & CONTRACTING

BID TAB FOR: ITB23-011 Sport Lake Road, Hakala Dr, Cotman Ct Gravel CIP

CONTRACTOR	LOCATION	BASE BID
Foster Construction LLC	Soldotna, Alaska	$514,915.00
CIC, Inc.	Soldotna, Alaska	$557,677.50
Great Northern Construction & Management	Soldotna, Alaska	$616,616.16

DUE DATE: September 13, 2022

KPB OFFICIAL: _____
John Hedges, Purchasing & Contracting Director

DocuSign Envelope ID: 061B3773-9DC3-450A-B2AA-66CA558C2EC6

Kenai Peninsula Borough
Purchasing & Contracting

MEMORANDUM

TO: Mike Navarre, Mayor

THRU: John Hedges, Purchasing & Contracting Director JH

FROM: Lee Frey, Solid Waste Director LF

DATE: November 9, 2022

RE: Authorization to Award a Contract for ITB23-025 Central Peninsula Landfill Brush Burning

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The Purchasing and Contracting Office formally solicited and received bids for the ITB23-025 Central Peninsula Landfill Brush Burning. Bid packets were released on October 18, 2022 and the Invitation to Bid was advertised in the Peninsula Clarion on October 18, 2022.

> This project consists of furnishing all labor, materials and equipment to open burn approximately 3,200 tons of slash and land clearing debris located at the CPL. Burning is expected to take place 24 hours per day, 7 days per week until all is burned and pile(s) is/are extinguished.

On the due date of November 1, 2022, four (4) bids were received and reviewed to ensure that all the specifications and delivery schedules were met. The low bid of $38,976.00 was submitted Stumpy's Tree Service, Soldotna, Alaska.

Your approval for this bid award is hereby requested. Funding for this project is in account number 290.32122.00000.43011.

Mike Navarre
Mike Navarre, Mayor

11/9/2022
Date

NA

FINANCE DEPARTMENT
FUNDS VERIFIED

Acct. No. 290.32122.00000.43011

Amount $38,976.00

By: CJ BH Date: 11/9/2022

DocuSign Envelope ID: 061B3773-9DC3-450A-B2AA-66CA558C2EC6

KENAI PENINSULA BOROUGH
PURCHASING & CONTRACTING

BID TAB FOR: ITB23-025 CENTRAL PENINSULA LANDFILL BRUSH BURNING

CONTRACTOR	LOCATION	BASE BID
Stumpy's Tree Service	Soldotna, Alaska	$38,976.00
Miller Unlimited, LLC	Soldotna, Alaska	$39,904.00
Andrews and Sons LLC	Seward, Alaska	$41,408.00
Great Northern Construction & Management	Soldotna, Alaska	$99,968.00

DUE DATE: November 1, 2022

KPB OFFICIAL: _____
John Hedges, Purchasing & Contracting Director

DocuSign Envelope ID: 9E1EA39C-ED76-4E9C-83CD-22D44519C09C

Kenai Peninsula Borough
Purchasing & Contracting

MEMORANDUM

TO: Mike Navarre, Mayor

THRU: John D. Hedges, Purchasing & Contracting Director JH

THRU: Dil Uhlin, Roads Director DU

FROM: Andrew Walsh, Project Manager AW

DATE: November 17, 2022

RE: Authorization to Award a Contract for RFP23-004 Gravel Road Design FY23

On October 17, 2022, the Kenai Peninsula Borough Purchasing & Contracting Department formally solicited proposals for RFP23-004 Gravel Road Design CIP FY23. The request for proposals was advertised in the Peninsula Clarion on October 4, 2022 and in the Anchorage Daily News on October 3, 2022.

The project consists providing professional design services, surveying and construction contract administration services for three groups of gravel roads:

(1) Parkway Ave, Sylvan Circle, Northern Lights Blvd;
(2) Lisburn Ave and (3) Griffing Way, Griffing Court, Territorial Drive
in the Road Service Area (RSA) Capital Improvement Project (CIP).

On the due date of October 17, 2022, two (2) proposals were received and reviewed by a review committee as follows:

FIRMS	LOCATION	TOTAL SCORE
McLane Consulting, Inc.	Soldotna, Alaska	356
Nelson Engineering	Soldotna, Alaska	352

The highest-ranking proposal, which includes a cost factor, was submitted by McLane Consulting, Inc. with a cost proposal of $53,330.00. The proposal review committee recommends award of a contract to McLane Consulting, Inc., Soldotna, Alaska. Your approval for this award is hereby requested.

Funding of this contract will be charged to account number 434.33950.C5PAR.43011, 434.33950.N3LIS.43011 and 434.33950.W1GRI.43011.

Mike Navarre
Mike Navarre, Borough Mayor

11/28/2022
Date

Funds are located in object code 49311.

FINANCE DEPARTMENT
FUNDS VERIFIED

Acct. No. 434.33950.C5PAR.43011 - $17,776.66

Acct. No. 434.33950.N3LIS.43011 - $17,776.67

Acct. No. 434.33950.W1GRI.43011 - $17,776.67

By: CG BH Date: 11/18/2022

DocuSign Envelope ID: 15A27141-D519-434A-904C-5A1E1B2C92A1

Kenai Peninsula Borough
Purchasing & Contracting

MEMORANDUM

TO: Mike Navarre, Mayor

THRU: John Hedges, Purchasing & Contracting Director JH

FROM: Lee Frey, Solid Waste Director LF

DATE: November 1, 2022

RE: Authorization to Award a Contract for ITB23-013 Kenai, Nikiski, Sterling Transfer Facilities Operation & Maintenance 2023.

The Purchasing and Contracting Office formally solicited and received bids for the ITB23-013 Kenai, Nikiski, Sterling Transfer Facilities Operation s & Maintenance 2023. Bid packets were released on August 25, 2022 and the Invitation to Bid was advertised in the Peninsula Clarion and Anchorage Daily News on August 25, 2022.

> The project consists of Operations and Maintenance of the Kenai, Nikiski and Sterling Transfer Facilities and transfer of waste to the Central Peninsula Landfill (CPL) in Soldotna.

On the due date of September 21, 2022, one (1) bid was received and reviewed to ensure that all the specifications and delivery schedules were met. The low bid of $1,188,299.25 was submitted by Alaska Waste – Kenai Peninsula LLC., Soldotna, Alaska

Your approval for this bid award is hereby requested. Funding for this project is in account number 290.32570.00000.43011.

Mike Navarre
Mike Navarre, Mayor

11/3/2022
Date

FINANCE DEPARTMENT
FUNDS VERIFIED

Acct. No. 290.32570.00000.43011

Amount $417,200.00

By: CG BH Date: 11/3/2022

NOTES This amount is for the remaining FY23. The balance will be paid in FY24.

DocuSign Envelope ID: 15A27141-D519-434A-904C-5A1E1B2C92A1

KENAI PENINSULA BOROUGH
PURCHASING & CONTRACTING

BID TAB FOR: ITB23-013 Nikiski, Kenai, Sterling Transfer Facility Operations & Maintenance

CONTRACTOR	LOCATION	BASE BID
Alaska Waste - Kenai Peninsula LLC	Soldotna, Alaska	$1,188,299.25

DUE DATE: September 21, 2022

KPB OFFICIAL: _____
John Hedges, Purchasing & Contracting Director

DocuSign Envelope ID: 15A27141-D519-434A-904C-5A1E1B2C92A1

Kenai Peninsula Borough
Purchasing & Contracting

MEMORANDUM

TO: Mike Navarre, Mayor

THRU: John Hedges, Purchasing & Contracting Director JH

FROM: Lee Frey, Solid Waste Director LF

DATE: November 1, 2022

RE: Authorization to Award a Contract for ITB23-012 Seward Transfer Facilities Operation & Maintenance 2023.

The Purchasing and Contracting Office formally solicited and received bids for the ITB23-012 Seward Transfer Facilities Operation s & Maintenance 2023. Bid packets were released on August 25, 2022 and the Invitation to Bid was advertised in the Peninsula Clarion and Anchorage Daily News on August 25, 2022.

> The project consists of Operations and Maintenance of the Seward Transfer Facilities and transfer of waste to the Central Peninsula Landfill (CPL) in Soldotna.

On the due date of September 21, 2022, one (1) bid was received and reviewed to ensure that all the specifications and delivery schedules were met. The low bid of $1,030,233.60 was submitted by Alaska Waste – Kenai Peninsula LLC., Soldotna, Alaska

Your approval for this bid award is hereby requested. Funding for this project is in account number 290.32150.00000.43011.

Mike Navarre
Mike Navarre, Mayor

11/3/2022
Date

FINANCE DEPARTMENT
FUNDS VERIFIED

Acct. No. 290.32150.00000.43011

Amount $236,700.00

By: CG BH Date: 11/3/2022

NOTES This amount is for the remaining FY23. The balance will be paid in FY24.

DocuSign Envelope ID: 15A27141-D519-434A-904C-5A1E1B2C92A1

KENAI PENINSULA BOROUGH
PURCHASING & CONTRACTING

BID TAB FOR: ITB23-012 Seward Transfer Facility Operations & Maintenance

CONTRACTOR	LOCATION	BASE BID
Alaska Waste - Kenai Peninsula LLC	Soldotna, Alaska	$1,030,233.60

DUE DATE: September 21, 2022

KPB OFFICIAL: _____
John Hedges, Purchasing & Contracting Director

Kenai Peninsula Borough
Assessing Department

MEMORANDUM

TO: Mike Navarre, Borough Mayor

FROM: Adeena Wilcox, Director of Assessing AW

DATE: November 10, 2022

RE: Tax Adjustment Request Approval

Attached is a spreadsheet of tax adjustment requests required by changes to the assessment roll. These adjustments are being submitted to the Finance Department for processing.

Borough code 5.12.119 (D) authorizes the mayor to approve tax adjustment requests prepared by the borough assessor.

I hereby certify that I have reviewed the tax adjustment requests submitted for your signature and I find them to be proper and correct.

DATED: November 10, 2022

Adeena Wilcox
Director of Assessing

APPROVED

Mike Navarre
Borough Mayor

NOVEMBER TARS

	2022	2021	2020	2019	2018
TAG 10 (assessed)					
(taxable)					
TAG 11 (assessed)					
(taxable)					
TAG 20 (assessed)					
(taxable)					
TAG 21 (assessed)					
(taxable)					
TAG 30 (assessed)					
(taxable					
TAG 40 (assessed)	($199,528)				
(taxable)	($199,528)				
TAG 41 (assessed)	($5,307)				
(taxable)	($5,311)				
TAG 42 (assessed)					
(taxable)					
TAG 43 (assessed)					
(taxable)					
TAG 52 (assessed)					
(taxable)					
TAG 53 (assessed)	$0				
(taxable)	($278,900)				
TAG 54 (assessed)					
(taxable)					
TAG 55 (assessed)					
(taxable)					
TAG 57 (assessed)					
(taxable)					
TAG 58 (assessed)	$0				
(taxable)	$534,700				
TAG 59 (assessed)					
(taxable)					
TAG 61 (assessed)					
(taxable)					
TAG 63 (assessed)					
(taxable)					
TAG 64 (assessed)					
(taxable)					
TAG 65 (assessed)					
(taxable)					
TAG 67 (assessed)					
(taxable)					
TAG 68 (assessed)					
(taxable)					
TAG 70 (assessed)	($22,000)				
(taxable)	($22,000)				
TAG 80 (assessed)					
(taxable)					
TAG 81 (assessed)					
(taxable)					
TOTAL ASSESSED	($226,835)	$0	$0	$0	$0
TOTAL TAXABLE	$28,961	$0	$0	$0	$0
KPB FLAT TAX	($150)				

NOVEMBER TARS

	2022	2021	2020	2019	2018
TAG 10 (assessed)					
(taxable)					
Seldovia Flat Tax					
TAG 20 (assessed)					
(taxable)					
Homer Flat Tax	($30)				
TAG 21 (assessed)					
(taxable)					
TAG 30 (assessed)					
(taxable)					
Disability Tax Credit					
TAG 40 (assessed)	($199,528)				
(taxable)	($199,528)				
TAG 41 (assessed)	($5,307)				
(taxable)	($5,307)				
TAG 70 (assessed)	($22,000)				
(taxable)	($22,000)				
Soldotna Flat Tax					
TAG 80 (assessed)					
(taxable)					

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2022 **TAR NUMBER** 40-22-005

PARCEL ID 92052

PRIMARY OWNER AT&T MOBILITY LLC

	CURRENT VALUE	CORRECTED VALUE
TAG	40	40
BOAT CLASS/COUNT		
PLANE CLASS/COUNT		
KPB ASSESSED (VT 1001)	$389,474	$189,946
KPB TAXABLE (VT 1003)	$385,438	$185,910
CITY ASSESSED (VT 1011)	$389,474	$189,946
CITY TAXABLE (V 1013)	$389,474	$189,946

EXPLANATION MAIN ROLL FILER 2022. AUDIT 2020-2022 RESULTS.

ASSETS LOCATED IN 94947 (41) WERE ADDED TO PIN 92052 (40) IN ERROR.

TRANSFER ASSETS FROM 92052 TO 94947 APPROPRIATELY BETWEEN ACCOUNTS.

DATE 10/12/22

SUBMITTED BY M PAYFER

VERIFIED BY C. FINLEY

CHANGE SUMMARY

KPB ASSESSED	($199,528)
KPB TAXABLE	($199,528)
CITY ASSESSED	($199,528)
CITY TAXABLE	($199,528)
KPB FLAT TAX	
CITY FLAT TAX	$0

Cadastre Values						Expand to Filter Values
Site	Class	Value Type	Attribute	Secondary Attribute	Previous Amount	Amount
Default - Default Value Group	**Appraised**	**Improvement Market value**			**$389,474.00**	**$189,946.00**
		TAG			40.00	40.00
		TAG.id			40.00	40.00
	Assessed	**Furniture, Fixtures & Equipment**			**$389,474.00**	**$189,946.00**
		Personal Property Assessed Value			**$389,474.00**	**$189,946.00**
		Total Assessed Value - City			**$389,474.00**	**$189,946.00**
		Total Borough Optional Exempt Value			**$4,028.00**	**$4,036.00**
		Total City Optional Exempt Value			0	0
		Total Assessed Value - Borough			**$389,474.00**	**$189,946.00**
	Taxable	**City Taxable Value**	**40 - SEWARD CITY**		**$389,474.00**	**$189,946.00**
		Taxable Value - Borough			**$385,446.00**	**$185,910.00**
	Exemption	Exemption Value City	40 - SEWARD CITY		0	0
		OP PP Bor $100K Exe Value			**$4,028.00**	**$4,036.00**
		OP PPV 100K Borough Contig Exemption			**$4,028.00**	
		OP PPV Borough $100K Exemption			**$4,028.00**	
		PP Boro Contig Flag			1.00	1.00
		PP Contiguous Boro Parcel Group			**2004834.00**	
		PP Contiguous Boro Parcel Sequence in Group			**7.00**	
		Exemption Value Borough			**$4,028.00**	**$4,036.00**
	Date	Year of Cadastre			2022.0000000000	2022.0000000000
		Effective date of value change			20220101.0000000000	20220101.0000000000

MANIFEST CLERICAL ERROR - CHECKLIST

The assembly may correct manifest clerical errors made by the borough in an assessment notice, tax statement or other borough tax record at any time. A manifest clerical error is a typographical, computational or other similar error readily apparent from the assessment notice, tax statement or other borough tax record and made by a borough employee in the performance of typing, record keeping, filing, measuring, or other similar duties.

Parcel ID / Acct # 00092052

X Typographical, computational or other similar error?
Identify & Describe:
2022 MR FILER. MANIFEST CLERICAL ERROR, ADDED ASSETS REPORTED LOCATED IN 94947 (41) TO 92052 (40) IN ERROR. PER AUDIT REVIEW OF TAX YEARS 2020 2022.

X Readily apparent from the assessment notice, tax statement or other borough tax record?
Identify & Describe:
2022 MR FILER. MANIFEST CLERICAL ERROR, ADDED ASSETS REPORTED LOCATED IN 94947 (41) TO 92052 (40) IN ERROR. PER AUDIT REVIEW OF TAX YEARS 2020 2022.

X Made by a borough employee in the performance of typing, record keeping, filing, measuring, or other similar duties?
Identify & Describe:
2022 MR FILER. MANIFEST CLERICAL ERROR, ADDED ASSETS REPORTED LOCATED IN 94947 (41) TO 92052 (40) IN ERROR. PER AUDIT REVIEW OF TAX YEARS 2020 2022.

Certified Value	Land	
	Improvements	
	Personal Property	$389,474
	Total	$389,474

Adjusted Value	Land	
	Improvements	
	Personal Property	$189,946
	Total	$189,946

Prepared by M PAYFER 10/12/2022
Date

Approved by Arleen Dewhurst 10/12/22
Department Director Date

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2022 **TAR NUMBER** 41-22-004

PARCEL ID 94947

PRIMARY OWNER AT&T MOBILITY LLC

	CURRENT VALUE	CORRECTED VALUE
TAG	41	41
BOAT CLASS/COUNT		
PLANE CLASS/COUNT		
KPB ASSESSED (VT 1001)	$181,757	$176,450
KPB TAXABLE (VT 1003)	$179,877	$174,566
CITY ASSESSED (VT 1011)	$181,757	$176,450
CITY TAXABLE (V 1013)	$181,757	$176,450

EXPLANATION MAIN ROLL FILER 2022. AUDIT 2020-2022 RESULTS.

ASSETS REPORTED FOR TAG 41 WERE ADDED TO PIN 92052 (40) IN ORDER. ASSETS REPORTED IN 2021 FOR 94947 ROLLED OVER WITH OUT CORRECTIONS. MANIFEST CLERICAL ERROR

DATE 10/12/22

SUBMITTED BY M PAYFER

VERIFIED BY C. FINLEY

CHANGE SUMMARY

KPB ASSESSED	($5,307)
KPB TAXABLE	($5,311)
CITY ASSESSED	($5,307)
CITY TAXABLE	($5,307)
KPB FLAT TAX	
CITY FLAT TAX	$0

Cadastre Values						Expand to Filter Values
Site	Class	Value Type	Attribute	Secondary Attribute	Previous Amount	Amount
Default - Default Value Group	**Appraised**	**Improvement Market value**			**$181,757.00**	**$176,450.00**
		TAG			41.00	41.00
		TAG.Id			41.00	41.00
	Assessed	**Furniture, Fixtures & Equipment**			**$181,757.00**	**$176,450.00**
		Personal Property Assessed Value			**$181,757.00**	**$176,450.00**
		Total Assessed Value - City			**$181,757.00**	**$176,450.00**
		Total Borough Optional Exempt Value			**$1,880.00**	**$1,884.00**
		Total City Optional Exempt Value			0	0
		Total Assessed Value - Borough			**$181,757.00**	**$176,450.00**
	Taxable	**City Taxable Value**	**41 - SEWARD SPECIAL**		**$181,757.00**	**$176,450.00**
		Taxable Value - Borough			**$179,877.00**	**$174,566.00**
	Exemption	Exemption Value City	41 - SEWARD SPECIAL		0	0
		OP PP Bor $100K Exe Value			**$1,880.00**	**$1,884.00**
		OP PPV 100K Borough Contig Exemption			**$1,880.00**	
		OP PPV Borough $100K Exemption			**$1,880.00**	
		PP Boro Contig Flag			1.00	1.00
		PP Contiguous Boro Parcel Group			**2004834.00**	
		PP Contiguous Boro Parcel Sequence in Group			**10.00**	
		Exemption Value Borough			**$1,880.00**	**$1,884.00**
	Date	Year of Cadastre			2022.0000000000	2022.0000000000
		Effective date of value change			20220101.0000000000	20220101.0000000000

MANIFEST CLERICAL ERROR - CHECKLIST

The assembly may correct manifest clerical errors made by the borough in an assessment notice, tax statement or other borough tax record at any time. A manifest clerical error is a typographical, computational or other similar error readily apparent from the assessment notice, tax statement or other borough tax record and made by a borough employee in the performance of typing, record keeping, filing, measuring, or other similar duties.

Parcel ID / Acct # 00094947

X Typographical, computational or other similar error?
Identify & Describe:
2022 MR FILER MANIFEST CLERICAL ERROR, ADDED ASSETS REPORTED LOCATED IN 94947 (41) TO 92052 (40) IN ERROR. PER AUDIT REVIEW OF TAX YEARS 2020-2022.

X Readily apparent from the assessment notice, tax statement or other borough tax record?
Identify & Describe:
2022 MR FILER. MANIFEST CLERICAL ERROR, ADDED ASSETS REPORTED LOCATED IN 94947 (41) TO 92052 (40) IN ERROR. PER AUDIT REVIEW OF TAX YEARS 2020-2022.

X Made by a borough employee in the performance of typing, record keeping, filing, measuring, or other similar duties?
Identify & Describe:
2022 MR FILER. MANIFEST CLERICAL ERROR, ADDED ASSETS REPORTED LOCATED IN 94947 (41) TO 92052 (40) IN ERROR. PER AUDIT REVIEW OF TAX YEARS 2020-2022.

Certified Value	Land	
	Improvements	
	Personal Property	$181,757
	Total	$181,757
Adjusted Value	Land	
	Improvements	
	Personal Property	$176,450
	Total	$176,450

Prepared by M PAYFER 10/12/2022
Date

Approved by [signature] 10/12/22
Department Director Date

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2022 **TAR NUMBER** 20-22-067

PARCEL ID 97308

PRIMARY OWNER MARIMAN GEORGE ROBERT

	CURRENT VALUE	CORRECTED VALUE
TAG	20	20
BOAT CLASS/COUNT	BC3-1	BC3-0
PLANE CLASS/COUNT		
KPB ASSESSED (VT 1001)		
KPB TAXABLE (VT 1003)		
CITY ASSESSED (VT 1011)		
CITY TAXABLE (V 1013)		

EXPLANATION MANIFEST CLERICAL ERROR. TAXPAYER NOTIFIED KPB WITH 2022 PERSONAL PROPERTY STATEMENT BOAT RMVD KPB IN AUG 2021. ACCOUNT SHOULD HAVE BEEN CLOSED FOR 2022.

DATE 10/07/22

SUBMITTED BY CLYDE JOHNSON

VERIFIED BY C. FINLEY

CHANGE SUMMARY

KPB ASSESSED	$0
KPB TAXABLE	$0
CITY ASSESSED	$0
CITY TAXABLE	$0
KPB FLAT TAX	($50)
CITY FLAT TAX	($10)

Cadastre Values					Expand to Filter Values	
Site	Class	Value Type	Attribute	Secondary Attribute	Previous Amount	Amount
Default - Default Value Group		**Boat Personal Class 3 Count**			**1.00**	
	Appraised	**Improvement Market value**			**$4,320.00**	
		TAG			**20.00**	
		TAG.Id			**20.00**	
	Assessed	**Boat Assessed Value**			**$4,320.00**	
		Boat Personal Class 3			**$4,320.00**	
		Personal Property Assessed Value			**0**	
		Total Assessed Value - City			**0**	
		Total City Optional Exempt Value			**0**	
		Total Assessed Value - Borough			**0**	
	Taxable	**City Taxable Value**	**20 - HOMER CITY**		**0**	
		Taxable Value - Borough			0	0
	Exemption	**Exemption Value City**	**20 - HOMER CITY**		**0**	
		OP PP Bor $100K Exe Value			0	0
		OP PPV 100K Exemption			$100,000.00	$100,000.00
		OP PPV Borough $100K Exemption			$100,000.00	$100,000.00
		OP PPV City $100K Exemption				**$100,000.00**
		OP PPV City $100K Exemption	**20 - HOMER CITY**		**$100,000.00**	
		Exemption Value Borough			0	0
	Date	**Year of Cadastre**			**2022.0000000000**	
		Effective date of value change			**20220101.0000000000**	

MANIFEST CLERICAL ERROR - CHECKLIST

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Parcel ID / Acct # 00097308

X Typographical, computational or other similar error?
Identify & Describe:
MANIFEST CLERICAL ERROR. TAXPAYER NOTIFIED KPB WITH 2022 PERSONAL PROPERTY STATEMENT BOAT REMOVED FROM KPB IN AUG 2021. ACCOUNT SHOULD HAVE BEEN CLOSED FOR 2022

X Readily apparent from the assessment notice, tax statement or other borough tax record?
Identify & Describe:
MANIFEST CLERICAL ERROR. TAXPAYER NOTIFIED KPB WITH 2022 PERSONAL PROPERTY STATEMENT BOAT REMOVED FROM KPB IN AUG 2021. ACCOUNT SHOULD HAVE BEEN CLOSED FOR 2022

X Made by a borough employee in the performance of typing, record keeping, filing, measuring, or other similar duties?
Identify & Describe:
MANIFEST CLERICAL ERROR. TAXPAYER NOTIFIED KPB WITH 2022 PERSONAL PROPERTY STATEMENT BOAT REMOVED FROM KPB IN AUG 2021. ACCOUNT SHOULD HAVE BEEN CLOSED FOR 2022.

Certified Value	Land	
	Improvements	
	Personal Property	
	Total	$0
Adjusted Value	Land	
	Improvements	
	Personal Property	
	Total	$0

Prepared by Clyde Johnson 10/7/2022
Date

Approved by [signature] 10/6/22
Department Director Date

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2022 **TAR NUMBER** 20-22-068

PARCEL ID 101875

PRIMARY OWNER TOW MARTY L

	CURRENT VALUE	CORRECTED VALUE
TAG	20	20
BOAT CLASS/COUNT	BC5-1	BC4-1
PLANE CLASS/COUNT		
KPB ASSESSED (VT 1001)		
KPB TAXABLE (VT 1003)		
CITY ASSESSED (VT 1011)		
CITY TAXABLE (V 1013)		

EXPLANATION MANIFEST CLERICAL ERROR. OWNER PROVIDED USCG REGS SHOWING BOAT LENGTH AT 35FT. ACCOUNT CREATED FOR 2022 WITH BOAT LENGTH AT 38FT AND BOAT CLASS 5. SHOULD HAVE BEEN CREATED AS A BOAT CLASS 4.

DATE 10/10/22

SUBMITTED BY CLYDE JOHNSON

VERIFIED BY

CHANGE SUMMARY

KPB ASSESSED	$0
KPB TAXABLE	$0
CITY ASSESSED	$0
CITY TAXABLE	$0
KPB FLAT TAX	($100)
CITY FLAT TAX	($20)

Cadastre Values						Expand to Filter Values
Site	Class	Value Type	Attribute	Secondary Attribute	Previous Amount	Amount
Default - Default Value Group		**Boat Personal Class 4 Count**				**1.00**
		Boat Personal Class 5 Count			**1.00**	
	Appraised	Improvement Market value			$28,500.00	$28,500.00
		TAG			20.00	20.00
		TAG.Id			20.00	20.00
	Assessed	Boat Assessed Value			$28,500.00	$28,500.00
		Boat Personal Class 4				**$28,500.00**
		Boat Personal Class 5			**$28,500.00**	
		Personal Property Assessed Value			0	0
		Total Assessed Value - City			0	0
		Total City Optional Exempt Value			0	0
		Total Assessed Value - Borough			0	0
	Taxable	City Taxable Value	20 - HOMER CITY		0	0
		Taxable Value - Borough			0	0
	Exemption	Exemption Value City	20 - HOMER CITY		0	0
		OP PP Bor $100K Exe Value			0	0
		OP PPV 100K Exemption			$100,000.00	$100,000.00
		OP PPV Borough $100K Exemption			$100,000.00	$100,000.00
		OP PPV City $100K Exemption	20 - HOMER CITY		$100,000.00	$100,000.00
		Exemption Value Borough			0	0
	Date	Year of Cadastre			2022.0000000000	2022.0000000000
		Effective date of value change			20220101.0000000000	20220101.0000000000

MANIFEST CLERICAL ERROR - CHECKLIST

The assembly may correct manifest clerical errors made by the borough in an assessment notice, tax statement or other borough tax record at any time. A manifest clerical error is a typographical, computational or other similar error readily apparent from the assessment notice, tax statement or other borough tax record and made by a borough employee in the performance of typing, record keeping, filing, measuring, or other similar duties.

Parcel ID / Acct # 00101875

X Typographical, computational or other similar error?

Identify & Describe.

MANIFEST CLERICAL ERROR. OWNER PROVIDED USCG REGS SHOWING BOAT LENGTH AT 35FT. ACCOUNT CREATED FOR 2022 WITH BOAT LENGTH AT 38FT AND BOAT CLASS 5. ACCOUNT SHOULD HAVE BEEN CREATED AT 35FT AND BOAT CLASS 4.

X Readily apparent from the assessment notice, tax statement or other borough tax record?

Identify & Describe:

MANIFEST CLERICAL ERROR. OWNER PROVIDED USCG REGS SHOWING BOAT LENGTH AT 35FT. ACCOUNT CREATED FOR 2022 WITH BOAT LENGTH AT 38FT AND BOAT CLASS 5. ACCOUNT SHOULD HAVE BEEN CREATED AT 35FT AND BOAT CLASS 4.

X Made by a borough employee in the performance of typing, record keeping, filing, measuring, or other similar duties?

Identify & Describe.

MANIFEST CLERICAL ERROR. OWNER PROVIDED USCG REGS SHOWING BOAT LENGTH AT 35FT. ACCOUNT CREATED FOR 2022 WITH BOAT LENGTH AT 38FT AND BOAT CLASS 5. ACCOUNT SHOULD HAVE BEEN CREATED AT 35FT AND BOAT CLASS 4.

Certified Value	Land	
	Improvements	
	Personal Property	
	Total	$0
Adjusted Value	Land	
	Improvements	
	Personal Property	
	Total	$0

Prepared by Clyde Johnson 10/10/2022
Date

Approved by [signature] 10/10/22
Department Director Date

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2022 **TAR NUMBER** 53-22-001

PARCEL ID 017-251-50

PRIMARY OWNER EYRING, JOAN

	CURRENT VALUE	CORRECTED VALUE
TAG	53	53
CLASS CODE	110	110
LAND ASSESSED (VT4)	12,000	12,000
IMPROVEMENT ASSESSED (VT5)	364,000	364,000
KPB ASSESSED (VT 1001)	376,000	376,000
KPB TAXABLE (VT 1003)	326,000	47,100
CITY ASSESSED (VT 1011)	0	0
CITY TAXABLE (VT 1013)	0	0

EXPLANATION SENIOR CITIZEN EXEMPTION APPROVED AFTER CONFIRMING PFD ELIGIBILITY

DATE 10/19/22

SUBMITTED BY SGUZMAN

VERIFIED BY C. FINLEY

CHANGE SUMMARY

KPB ASSESSED	$0
KPB TAXABLE	($278,900)
CITY ASSESSED	$0
CITY TAXABLE	$0
KPB FLAT TAX	
CITY FLAT TAX	

Cadastre Values						Expand to Filter Values
Site	Class	Value Type	Attribute	Secondary Attribute	Previous Amount	Amount
Default - Default Value Group		Legal Acres			1.55 Acres	1.55 Acres
	Appraised	Improvement Market value			$364,000.00	$364,000.00
		Land Market value			$12,000.00	$12,000.00
		TAG			53.00	53.00
		TAG.Id			53.00	53.00
	Assessed	**Improvements**			**$364,000.00**	**$269,900.00**
		Land			**$12,000.00**	**$9,000.00**
		Parcel Assessed Value			$376,000.00	$376,000.00
		Personal Property Assessed Value			0	0
		Qualified for Exemption			**$376,000.00**	**$278,900.00**
		Total Assessed Value - City			0	0
		Total Borough Optional Exempt Value			**$50,000.00**	**$178,900.00**
		Total City Optional Exempt Value			0	0
		Total Mandatory Exempt Value				**$150,000.00**
		Unqualified Improvements				**$94,100.00**
		Unqualified Land				**$3,000.00**
		Land Assessed Value			$12,000.00	$12,000.00
		Improvement Assessed Value			$364,000.00	$364,000.00
		Total Assessed Value - Borough			$376,000.00	$376,000.00
	Taxable	City Taxable Value	53 - NIKISKI FIRE		0	0
		Taxable Value - Borough			**$326,000.00**	**$47,100.00**
	Exemption	**BOROUGH SENIOR Exempt Value**				**$278,900.00**
		Cap for Senior Exemption				**$150,000.00**
		Exemption Value City	53 - NIKISKI FIRE		0	0
		OP Residential Boro Exemption			$50,000.00	$50,000.00
		OP Senior Resident >150k Exempt Value				**$128,900.00**
		Residential Exemption			$50,000.00	$50,000.00
		Senior Citizen Exemption				**$150,000.00**
		Senior Mandatory Exempt Value				**$150,000.00**
		Senior MandatoryImp				**$150,000.00**
		Working Improvement Assessed Value			$364,000.00	$364,000.00
		Exemption Value Borough			**$50,000.00**	**$328,900.00**
	Date	Year of Cadastre			2022.0000000000	2022.0000000000
		Effective date of value change			20220101.0000000000	20220101.0000000000

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2022 **TAR NUMBER** 58-22-042

PARCEL ID 055-072-73

PRIMARY OWNER TRIMARK EARTH RESERVE LLC

	CURRENT VALUE	CORRECTED VALUE
TAG	58	58
CLASS CODE	100	100
LAND ASSESSED (VT4)	534,700	534,700
IMPROVEMENT ASSESSED (VT5)	0	0
KPB ASSESSED (VT 1001)	534,700	534,700
KPB TAXABLE (VT 1003)	0	534,700
CITY ASSESSED (VT 1011)	0	0
CITY TAXABLE (VT 1013)	0	0

EXPLANATION EXEMPTION MODIFIER NOT REMOVED WHEN PROPERTY TRANSFERRED OWNERSHIP

DATE 11/07/22

SUBMITTED BY L.CRANE

VERIFIED BY C. FINLEY

CHANGE SUMMARY

KPB ASSESSED	$0
KPB TAXABLE	$534,700
CITY ASSESSED	$0
CITY TAXABLE	$0
KPB FLAT TAX	
CITY FLAT TAX	

Cadastre Values						Expand to Filter Values
Site	Class	Value Type	Attribute	Secondary Attribute	Previous Amount	Amount
Default - Default Value Group		Legal Acres			54.90 Acres	54.90 Acres
	Appraised	Land Market value			$534,700.00	$534,700.00
		TAG			58.00	58.00
		TAG.Id			58.00	58.00
	Assessed	Land			$534,700.00	$534,700.00
		Parcel Assessed Value			$534,700.00	$534,700.00
		Personal Property Assessed Value			0	0
		Qualified for Exemption			$534,700.00	$534,700.00
		Total Assessed Value - City			0	0
		Total City Optional Exempt Value			0	0
		Total Mandatory Exempt Value			**$534,700.00**	
		Land Assessed Value			$534,700.00	$534,700.00
		Total Assessed Value - Borough			$534,700.00	$534,700.00
	Taxable	City Taxable Value	58 - CENTRAL EMERGENCY SERVICES		0	0
		Taxable Value - Borough			**0**	**$534,700.00**
	Exemption	Exemption Value City	58 - CENTRAL EMERGENCY SERVICES		0	0
		Government Exempt Value			**$534,700.00**	
		Exemption Value Borough			**$534,700.00**	**0**
	Date	Year of Cadastre			2022.0000000000	2022.0000000000
		Effective date of value change			20220101.0000000000	20220101.0000000000

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2022 **TAR NUMBER** 70-22-003

PARCEL ID 060-341-50

PRIMARY OWNER RONALD L DAVIS JR

	CURRENT VALUE	CORRECTED VALUE
TAG	70	70
CLASS CODE	651	651
LAND ASSESSED (VT4)	11,000	5,500
IMPROVEMENT ASSESSED (VT5)	26,400	26,400
KPB ASSESSED (VT 1001)	37,400	31,900
KPB TAXABLE (VT 1003)	37,400	31,900
CITY ASSESSED (VT 1011)	37,400	31,900
CITY TAXABLE (VT 1013)	37,400	31,900

EXPLANATION PI VALUE NOT ENTERED CORRECTLY INTO SYSTEM

DATE 11/08/22

SUBMITTED BY L.CRANE

VERIFIED BY C. FINLEY

CHANGE SUMMARY

KPB ASSESSED	($5,500)
KPB TAXABLE	($5,500)
CITY ASSESSED	($5,500)
CITY TAXABLE	($5,500)
KPB FLAT TAX	
CITY FLAT TAX	

Cadastre Values						Expand to Filter Values
Site	Class	Value Type	Attribute	Secondary Attribute	Previous Amount	Amount
Default - Default Value Group		**Legal Acres**			**.08 Acres**	
	Appraised	Improvement Market value			$26,400.00	$26,400.00
		Land Market value			$5,500.00	$5,500.00
		Land Use Value			$5,500.00	$5,500.00
		TAG			70.00	70.00
		TAG.Id			70.00	70.00
	Assessed	Improvements			$26,400.00	$26,400.00
		Land			**$11,000.00**	**$5,500.00**
		Parcel Assessed Value			**$37,400.00**	**$31,900.00**
		Personal Property Assessed Value			0	0
		Qualified for Exemption			$37,400.00	$37,400.00
		Total Assessed Value - City			**$37,400.00**	**$31,900.00**
		Total City Optional Exempt Value			0	0
		Land Assessed Value			**$11,000.00**	**$5,500.00**
		Improvement Assessed Value			$26,400.00	$26,400.00
		Total Assessed Value - Borough			**$37,400.00**	**$31,900.00**
	Taxable	**City Taxable Value**	**70 - SOLDOTNA CITY**		**$37,400.00**	**$31,900.00**
		Taxable Value - Borough			**$37,400.00**	**$31,900.00**
	Exemption	Exemption Value City	70 - SOLDOTNA CITY		0	0
		Gov Exempt Possessory Interest Taxed				**$5,500.00**
		Working Improvement Assessed Value			$26,400.00	$26,400.00
		Exemption Value Borough			0	0
	Date	Year of Cadastre			2022.0000000000	2022.0000000000
		Effective date of value change			20220101.0000000000	20220101.0000000000

MANIFEST CLERICAL ERROR - CHECKLIST

The assembly may correct manifest clerical errors made by the borough in an assessment notice, tax statement or other borough tax record at any time. A manifest clerical error is a typographical, computational or other similar error readily apparent from the assessment notice, tax statement or other borough tax record and made by a borough employee in the performance of typing, record keeping, filing, measuring, or other similar duties.

Parcel ID / Acct # 060-341-50

X Typographical, computational or other similar error?
Identify & Describe.
PI VALUE NOT ENTERED CORRECTLY INTO SYSTEM

X Readily apparent from the assessment notice, tax statement or other borough tax record?
Identify & Describe:
PI VALUE NOT ENTERED CORRECTLY INTO SYSTEM

X Made by a borough employee in the performance of typing, record keeping, filing, measuring, or other similar duties?
Identify & Describe:
PI VALUE NOT ENTERED CORRECTLY INTO SYSTEM

Certified Value	Land	$11,000
	Improvements	$26,400
	Personal Property	
	Total	$37,400
Adjusted Value	Land	$5,500
	Improvements	$26,400
	Personal Property	
	Total	$31,900

Prepared by L. CRANE 11/8/2022
Date

Approved by [signature] 11/8/22
Department Director Date

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2022 **TAR NUMBER** 70-22-004

PARCEL ID 060-341-51

PRIMARY OWNER RONALD L DAVIS JR

	CURRENT VALUE	CORRECTED VALUE
TAG	70	70
CLASS CODE	651	651
LAND ASSESSED (VT4)	11,000	5,500
IMPROVEMENT ASSESSED (VT5)	29,300	29,300
KPB ASSESSED (VT 1001)	40,300	34,800
KPB TAXABLE (VT 1003)	40,300	34,800
CITY ASSESSED (VT 1011)	40,300	34,800
CITY TAXABLE (VT 1013)	40,300	34,800

EXPLANATION PI VALUE NOT ENTERED CORRECTLY INTO SYSTEM

DATE 11/08/22

SUBMITTED BY L.CRANE

VERIFIED BY C. FINLEY

CHANGE SUMMARY

KPB ASSESSED	($5,500)
KPB TAXABLE	($5,500)
CITY ASSESSED	($5,500)
CITY TAXABLE	($5,500)
KPB FLAT TAX	
CITY FLAT TAX	

Cadastre Values

Expand to Filter Values

Site	Class	Value Type	Attribute	Secondary Attribute	Previous Amount	Amount
Default - Default Value Group		**Legal Acres**			**.00 Acres**	
	Appraised	Improvement Market value			$29,300.00	$29,300.00
		Land Market value			$5,500.00	$5,500.00
		Land Use Value			$5,500.00	$5,500.00
		TAG			70.00	70.00
		TAG.Id			70.00	70.00
	Assessed	Improvements			$29,300.00	$29,300.00
		Land			**$11,000.00**	**$5,500.00**
		Parcel Assessed Value			**$40,300.00**	**$34,800.00**
		Personal Property Assessed Value			0	0
		Qualified for Exemption			$40,300.00	$40,300.00
		Total Assessed Value - City			**$40,300.00**	**$34,800.00**
		Total City Optional Exempt Value			0	0
		Land Assessed Value			**$11,000.00**	**$5,500.00**
		Improvement Assessed Value			$29,300.00	$29,300.00
		Total Assessed Value - Borough			**$40,300.00**	**$34,800.00**
	Taxable	**City Taxable Value**	**70 - SOLDOTNA CITY**		**$40,300.00**	**$34,800.00**
		Taxable Value - Borough			**$40,300.00**	**$34,800.00**
	Exemption	Exemption Value City	70 - SOLDOTNA CITY		0	0
		Gov Exempt Possessory Interest Taxed				**$5,500.00**
		Working Improvement Assessed Value			$29,300.00	$29,300.00
		Exemption Value Borough			0	0
	Date	Year of Cadastre			2022.0000000000	2022.0000000000
		Effective date of value change			20220101.0000000000	20220101.0000000000

MANIFEST CLERICAL ERROR - CHECKLIST

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Parcel ID / Acct # 060-341-51

X Typographical, computational or other similar error?
Identify & Describe:
PI VALUE NOT ENTERED CORRECTLY INTO SYSTEM

X Readily apparent from the assessment notice, tax statement or other borough tax record?
Identify & Describe:
PI VALUE NOT ENTERED CORRECTLY INTO SYSTEM

X Made by a borough employee in the performance of typing, record keeping, filing, measuring, or other similar duties?
Identify & Describe:
PI VALUE NOT ENTERED CORRECTLY INTO SYSTEM

Certified Value	Land	$11,000
	Improvements	$29,300
	Personal Property	
	Total	$40,300
Adjusted Value	Land	$5,500
	Improvements	$29,300
	Personal Property	
	Total	$34,800

Prepared by L. CRANE 11/8/2022
Date

Approved by [signature] 11/8/22
Department Director Date

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2022 **TAR NUMBER** 70-22-005

PARCEL ID 060-341-52

PRIMARY OWNER RONALD L DAVIS JR

	CURRENT VALUE	CORRECTED VALUE
TAG	70	70
CLASS CODE	651	651
LAND ASSESSED (VT4)	11,000	5,500
IMPROVEMENT ASSESSED (VT5)	36,100	36,100
KPB ASSESSED (VT 1001)	47,100	41,600
KPB TAXABLE (VT 1003)	47,100	41,600
CITY ASSESSED (VT 1011)	47,100	41,600
CITY TAXABLE (VT 1013)	47,100	41,600

EXPLANATION PI VALUE NOT ENTERED CORRECTLY INTO SYSTEM

DATE 11/08/22

SUBMITTED BY L.CRANE

VERIFIED BY C. FINLEY

CHANGE SUMMARY

KPB ASSESSED	($5,500)
KPB TAXABLE	($5,500)
CITY ASSESSED	($5,500)
CITY TAXABLE	($5,500)
KPB FLAT TAX	
CITY FLAT TAX	

Cadastre Values

Expand to Filter Values

Site	Class	Value Type	Attribute	Secondary Attribute	Previous Amount	Amount
Default - Default Value Group		**Legal Acres**			**.08 Acres**	
	Appraised	Improvement Market value			$36,100.00	$36,100.00
		Land Market value			$5,500.00	$5,500.00
		Land Use Value			$5,500.00	$5,500.00
		TAG			70.00	70.00
		TAG.Id			70.00	70.00
	Assessed	Improvements			$36,100.00	$36,100.00
		Land			**$11,000.00**	**$5,500.00**
		Parcel Assessed Value			**$47,100.00**	**$41,600.00**
		Personal Property Assessed Value			0	0
		Qualified for Exemption			$47,100.00	$47,100.00
		Total Assessed Value - City			**$47,100.00**	**$41,600.00**
		Total City Optional Exempt Value			0	0
		Land Assessed Value			**$11,000.00**	**$5,500.00**
		Improvement Assessed Value			$36,100.00	$36,100.00
		Total Assessed Value - Borough			**$47,100.00**	**$41,600.00**
	Taxable	**City Taxable Value**	**70 - SOLDOTNA CITY**		**$47,100.00**	**$41,600.00**
		Taxable Value - Borough			**$47,100.00**	**$41,600.00**
	Exemption	Exemption Value City	70 - SOLDOTNA CITY		0	0
		Gov Exempt Possessory Interest Taxed				**$5,500.00**
		Working Improvement Assessed Value			$36,100.00	$36,100.00
		Exemption Value Borough			0	0
	Date	Year of Cadastre			2022.0000000000	2022.0000000000
		Effective date of value change			20220101.0000000000	20220101.0000000000

MANIFEST CLERICAL ERROR - CHECKLIST

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Parcel ID / Acct # 060-341-52

X Typographical, computational or other similar error?
Identify & Describe:
PI VALUE NOT ENTERED CORRECTLY INTO SYSTEM

X Readily apparent from the assessment notice, tax statement or other borough tax record?
Identify & Describe:
PI VALUE NOT ENTERED CORRECTLY INTO SYSTEM

X Made by a borough employee in the performance of typing, record keeping, filing, measuring, or other similar duties?
Identify & Describe:
PI VALUE NOT ENTERED CORRECTLY INTO SYSTEM

Certified Value	Land	$11,000
	Improvements	$36,100
	Personal Property	
	Total	$47,100
Adjusted Value	Land	$5,500
	Improvements	$36,100
	Personal Property	
	Total	$41,600

Prepared by L. CRANE 11/8/2022
Date

Approved by Department Director 11/8/22 Date

TAX ADJUSTMENT REQUEST

ROLL/YEAR 2022 **TAR NUMBER** 70-22-006

PARCEL ID 060-341-66

PRIMARY OWNER RONALD L DAVIS JR

	CURRENT VALUE	CORRECTED VALUE
TAG	70	70
CLASS CODE	651	651
LAND ASSESSED (VT4)	11,000	5,500
IMPROVEMENT ASSESSED (VT5)	37,900	37,900
KPB ASSESSED (VT 1001)	48,900	43,400
KPB TAXABLE (VT 1003)	48,900	43,400
CITY ASSESSED (VT 1011)	48,900	43,400
CITY TAXABLE (VT 1013)	48,900	43,400

EXPLANATION PI VALUE NOT ENTERED CORRECTLY INTO SYSTEM

DATE 11/08/22

SUBMITTED BY L.CRANE

VERIFIED BY C. FINLEY

CHANGE SUMMARY

KPB ASSESSED	($5,500)
KPB TAXABLE	($5,500)
CITY ASSESSED	($5,500)
CITY TAXABLE	($5,500)
KPB FLAT TAX	
CITY FLAT TAX	

Cadastre Values

Expand to Filter Values

Site	Class	Value Type	Attribute	Secondary Attribute	Previous Amount	Amount
Default - Default Value Group		**Legal Acres**			**.08 Acres**	
	Appraised	Improvement Market value			**$37,900.00**	**$37,900.00**
		Land Market value			**$5,500.00**	**$5,500.00**
		Land Use Value			**$5,500.00**	**$5,500.00**
		TAG			70.00	70.00
		TAG.Id			70.00	70.00
	Assessed	Improvements			**$37,900.00**	**$37,900.00**
		Land			**$11,000.00**	**$5,500.00**
		Parcel Assessed Value			**$48,900.00**	**$43,400.00**
		Personal Property Assessed Value			0	0
		Qualified for Exemption			**$48,900.00**	**$48,900.00**
		Total Assessed Value - City			**$48,900.00**	**$43,400.00**
		Total City Optional Exempt Value			0	0
		Land Assessed Value			**$11,000.00**	**$5,500.00**
		Improvement Assessed Value			**$37,900.00**	**$37,900.00**
		Total Assessed Value - Borough			**$48,900.00**	**$43,400.00**
	Taxable	**City Taxable Value**	**70 - SOLDOTNA CITY**		**$48,900.00**	**$43,400.00**
		Taxable Value - Borough			**$48,900.00**	**$43,400.00**
	Exemption	Exemption Value City	70 - SOLDOTNA CITY		0	0
		Gov Exempt Possessory Interest Taxed				**$5,500.00**
		Working Improvement Assessed Value			**$37,900.00**	**$37,900.00**
		Exemption Value Borough			0	0
	Date	Year of Cadastre			2022.0000000000	2022.0000000000
		Effective date of value change			20220101.0000000000	20220101.0000000000

MANIFEST CLERICAL ERROR - CHECKLIST

The assembly may correct manifest clerical errors made by the borough in an assessment notice, tax statement or other borough tax record at any time. A manifest clerical error is a typographical, computational or other similar error readily apparent from the assessment notice, tax statement or other borough tax record and made by a borough employee in the performance of typing, record keeping, filing, measuring, or other similar duties.

Parcel ID / Acct # 060-341-66

X Typographical, computational or other similar error?
Identify & Describe:
PI VALUE NOT ENTERED CORRECTLY INTO SYSTEM

X Readily apparent from the assessment notice, tax statement or other borough tax record?
Identify & Describe:
PI VALUE NOT ENTERED CORRECTLY INTO SYSTEM

X Made by a borough employee in the performance of typing, record keeping, filing, measuring, or other similar duties?
Identify & Describe:
PI VALUE NOT ENTERED CORRECTLY INTO SYSTEM

Certified Value	Land	$11,000
	Improvements	$37,900
	Personal Property	
	Total	$48,900
Adjusted Value	Land	$5,500
	Improvements	$37,900
	Personal Property	
	Total	$43,400

Prepared by L. CRANE 11/8/2022
Date

Approved by [signature] 11/8/22
Department Director Date

Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Mike Navarre, Borough Mayor
Brandi Harbaugh, Finance Director

FROM: Chad Friedersdorff, Financial Planning Manager

DATE: November 29, 2022

RE: Investment Report quarter ended 9/30/22

Attached is the Quarterly Investment Report of the Kenai Peninsula Borough for the quarter ending September 30, 2022.

Portfolio Statistics	Quarter Ended 6/30/2022	Quarter Ended 9/30/2022
Average Daily Balance	$272,485,083	$299,375,041
Earned Interest Yield	1.160%	1.779%
Duration in Years	2.00	1.96
Book Value	$291,479,158	$319,673,300
Market Value	$282,968,084	$307,765,371
Percent % of Market Value	103.01%	103.87%

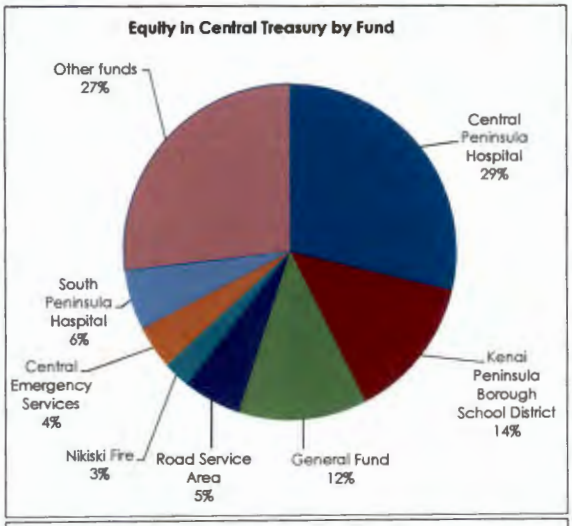
Investment Description	Yield quarter ending 6/30/2022	Yield quarter ending 9/30/2022	Market Value quarter ending 9/30/2022
Cash and Cash Equivalents	1.25%	2.34%	$58,971,746
AMLIP	1.22%	2.75%	9,854,970
U.S. Treasury Securities	0.73%	0.95%	55,943,937
US Agencies	1.37%	2.11%	97,178,655
Corporate Bonds	1.80%	2.02%	51,099,073
Municipal Bonds	1.30%	1.51%	24,509,664
Money Market Mutual Funds	1.21%	2.67%	8,128,125
Special Assessments	5.37%	5.44%	633,737
CDs	0.33%	0.33%	1,445,464
Total			**$307,765,371**

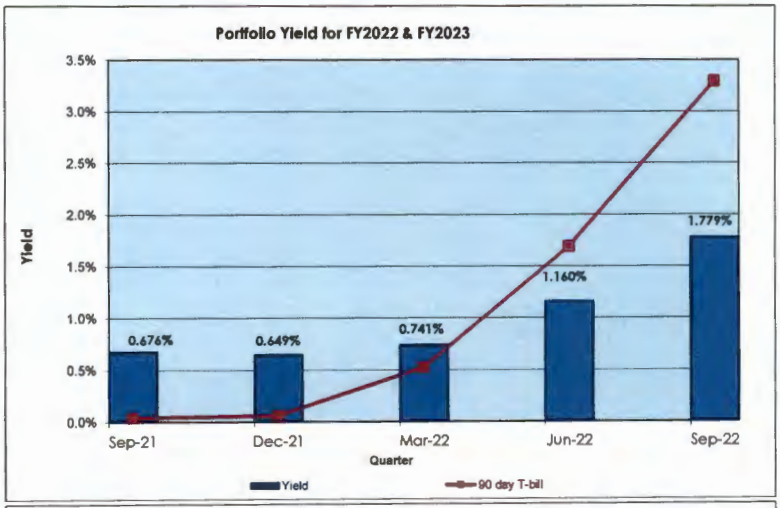
Major Categories:	Percentage of Portfolio	Book Value quarter ending 9/30/2022
Bond related funds	3.65%	$11,676,005
Hospital service area funds & plant/equipment replacement funds (PREF)	21.51%	68,757,453
School District	13.80%	44,124,282
Capital Project fund restrictions	21.04%	67,269,523
Special Revenue funds restrictions	16.35%	52,263,420
Internal Service/Agency fund restrictions	4.85%	15,506,555
General Fund	18.80%	60,076,062
Total	**100.00%**	**$319,673,300**

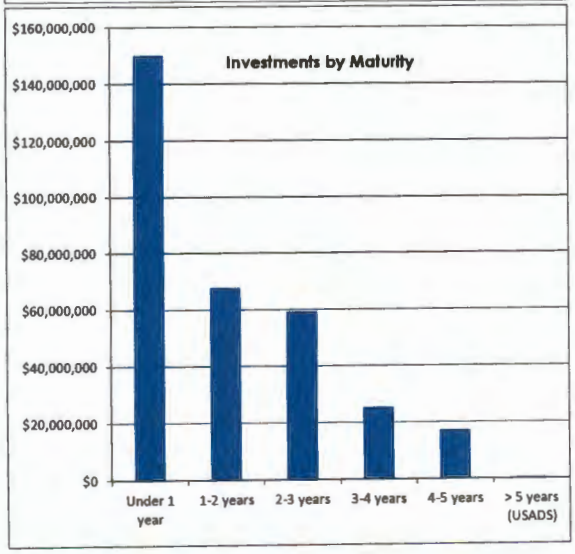
INVESTMENT PORTFOLIO
September 30, 2022

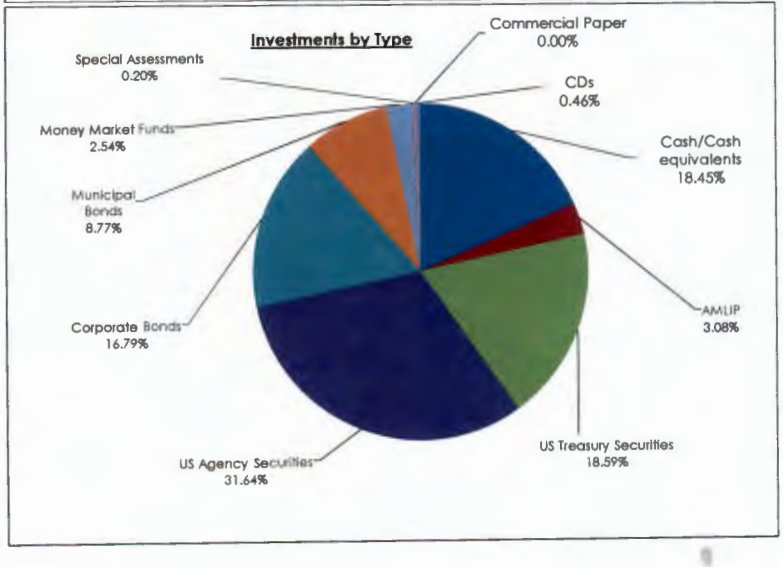
	Par Value	Purchase Price	Fair Value 09/30/2022
Investments by Borough Finance Director			
CORPORATE	22,590,000	22,839,645	22,321,829
CDs	1,485,000	1,485,000	1,445,464
MUNICIPAL	4,125,000	3,928,418	3,908,175
AGENCY	59,500,000	59,303,810	58,342,643
US TREASURY	30,245,000	30,603,246	29,672,514
Total Investment by Borough Finance Director:	**117,945,000**	**118,160,119**	**115,690,624**
Investment with External Manager:			
CORPORATE	29,949,000	30,846,876	28,777,245
MUNICIPAL	21,895,000	22,417,731	20,601,489
AGENCY	41,946,107	41,831,487	38,836,013
US TREASURY	31,075,000	30,617,407	28,013,317
Total Security Investment with External Manager:	**124,865,107**	**125,713,501**	**116,228,063**
TOTAL SECURITY INVESTMENTS	**242,810,107**	**243,873,620**	**231,918,687**
CASH & CASH EQUIVALENTS	75,209,841	75,165,944	75,212,947
SPECIAL ASSESSMENTS	633,737	633,737	633,737
TOTAL PORTFOLIO	**318,653,685**	**319,673,300**	**307,765,371**

Security Portfolio - Purchase Price	$ 242,456,692.28
Security Portfolio - Fair Value 9/30/22	230,548,763.80
Fair Value Adjustment -9/30/22	**(11,907,928.48)**
Fair Value Adjustment - 6/30/22	(8,511,074.28)
Change in Fair Value FY2023	$ (3,396,854.20)









KENAI PENINSULA BOROUGH - LAND TRUST INVESTMENT FUND

Account Statement - Period Ending July 31, 2022

ALASKA PERMANENT CAPITAL MANAGEMENT
Registered Investment Adviser

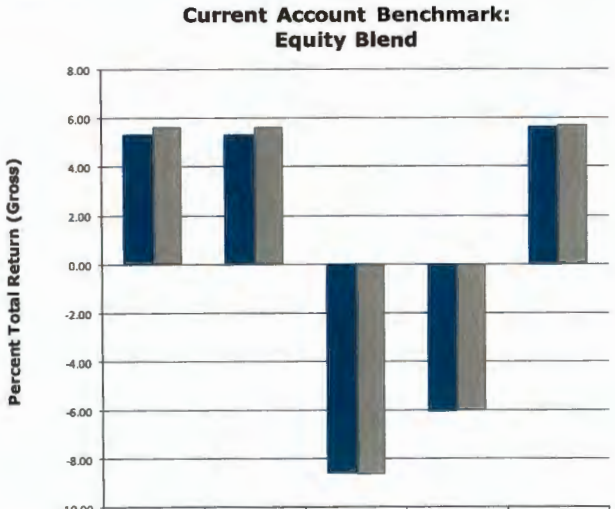
ACCOUNT ACTIVITY

Portfolio Value on 06-30-22	8,062,102
Contributions	0
Withdrawals	-1,008
Change in Market Value	417,848
Interest	261
Dividends	11,174
Portfolio Value on 07-31-22	8,490,377

MANAGEMENT TEAM

Client Relationship Manager:	Blake Phillips, CFA® Blake@apcm.net
Your Portfolio Manager:	Brandy Niclai, CFA®
Contact Phone Number:	907/272-7575

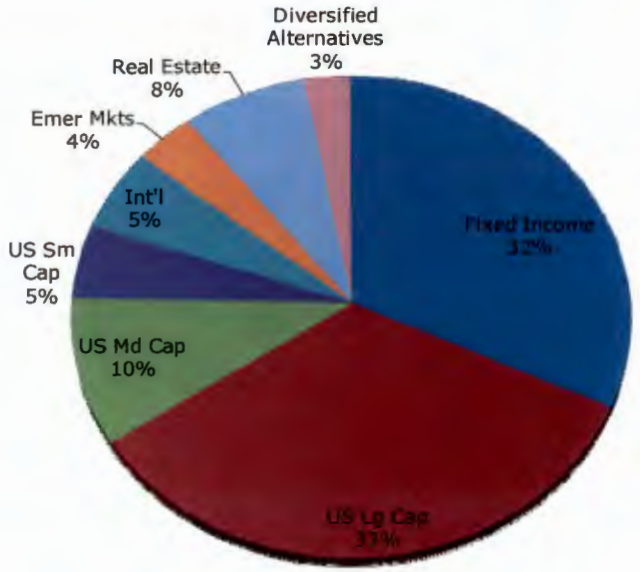
INVESTMENT PERFORMANCE



	Current Month	Current Quarter	Year to Date	Latest 1 Year	Inception to Date
Portfolio	5.32	5.32	-8.58	-6.04	5.62
Benchmark	5.63	5.63	-8.64	-5.98	5.70

Performance is Annualized for Periods Greater than One Year

PORTFOLIO COMPOSITION

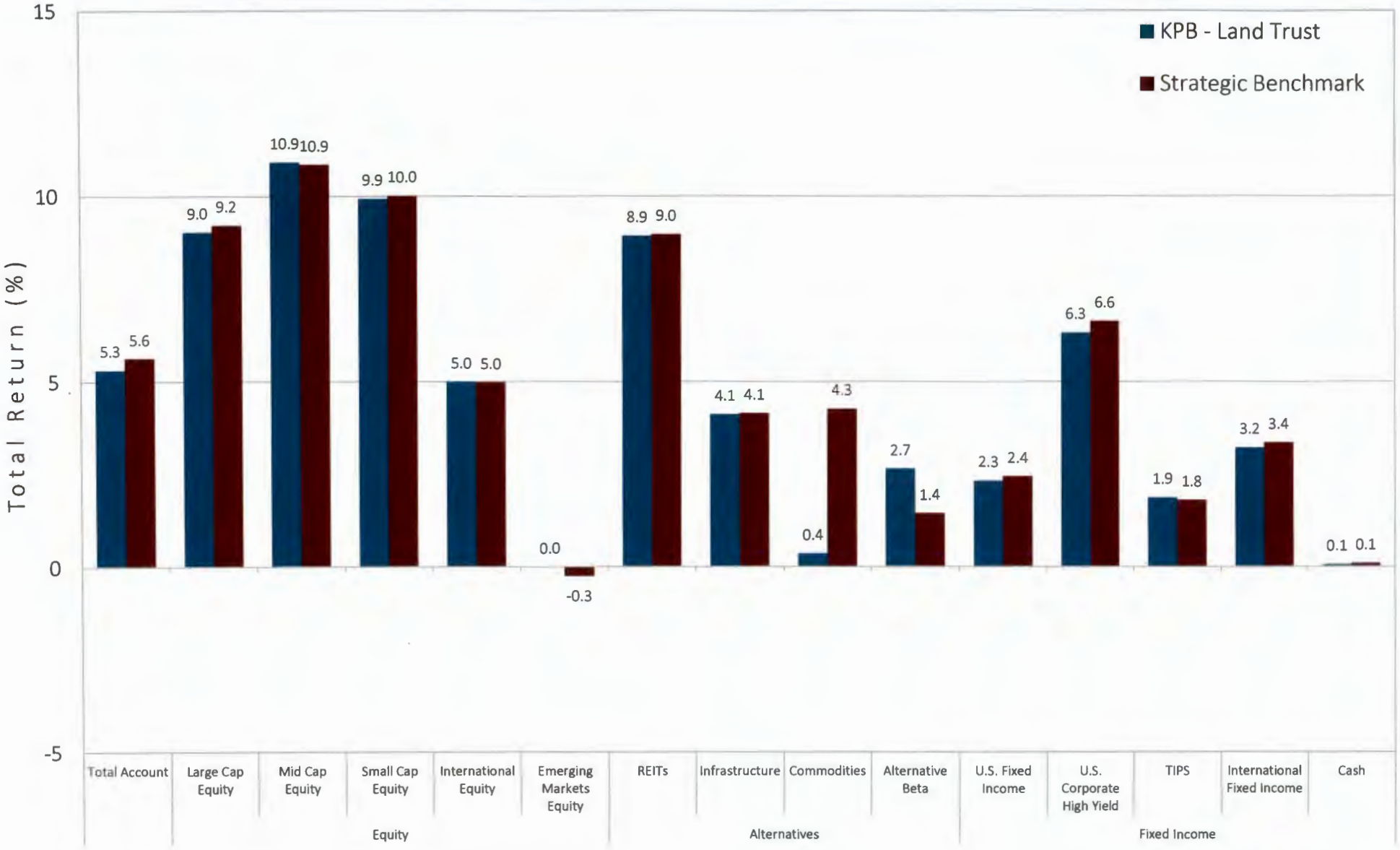


Clients are encouraged to compare this report with the official statement from their custodian.

PORTFOLIO REVIEW

Asset Class Performance *July 2022*

Kenai Peninsula Borough Land Trust Investment Fund



Performance is gross of management fees and net of internal fund fees.

KENAI PENINSULA BOROUGH - LAND TRUST INVESTMENT FUND

Account Statement - Period Ending August 31, 2022

ALASKA PERMANENT CAPITAL MANAGEMENT
Registered Investment Adviser

ACCOUNT ACTIVITY

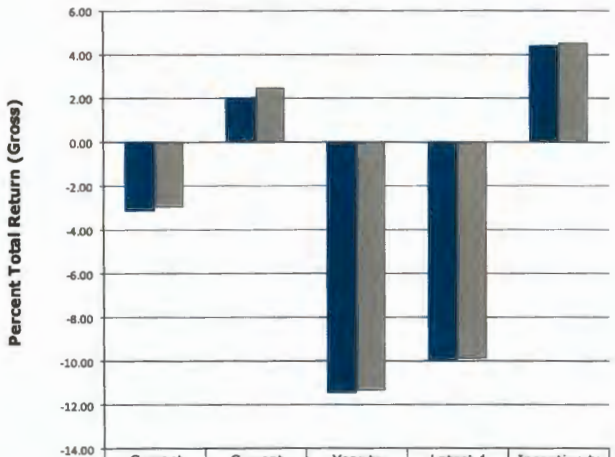
Portfolio Value on 07-31-22	8,490,377
Contributions	0
Withdrawals	-1,061
Change in Market Value	-271,018
Interest	442
Dividends	5,053
Portfolio Value on 08-31-22	8,223,793

MANAGEMENT TEAM

Client Relationship Manager:	Blake Phillips, CFA® Blake@apcm.net
Your Portfolio Manager:	Brandy Niclai, CFA®
Contact Phone Number:	907/272-7575

INVESTMENT PERFORMANCE

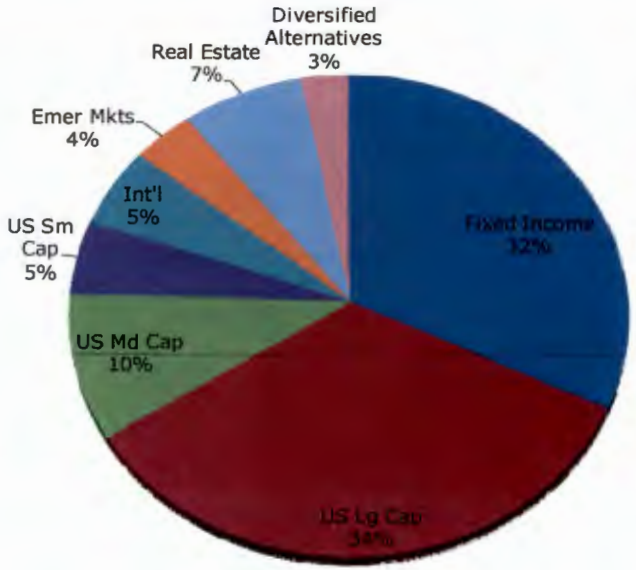
Current Account Benchmark: Equity Blend



	Current Month	Current Quarter	Year to Date	Latest 1 Year	Inception to Date
Portfolio	-3.13	2.03	-11.44	-10.02	4.42
Benchmark	-2.97	2.49	-11.35	-9.86	4.55

Performance is Annualized for Periods Greater than One Year

PORTFOLIO COMPOSITION

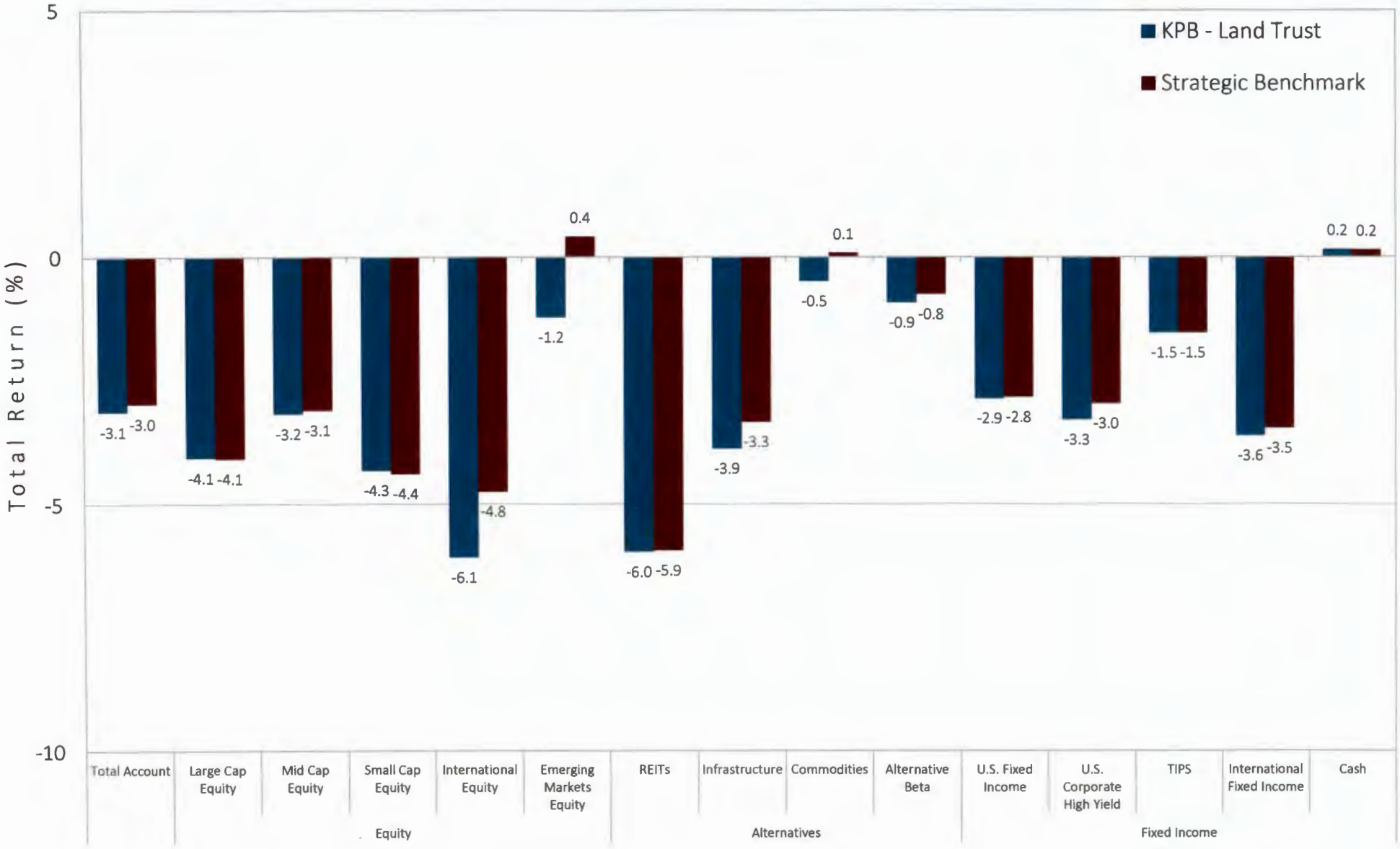


Clients are encouraged to compare this report with the official statement from their custodian.

PORTFOLIO REVIEW

Asset Class Performance *August 2022*

Kenai Peninsula Borough Land Trust Investment Fund



Performance is gross of management fees and net of internal fund fees.

KENAI PENINSULA BOROUGH - LAND TRUST INVESTMENT FUND

Account Statement - Period Ending September 30, 2022

ALASKA PERMANENT CAPITAL MANAGEMENT
Registered Investment Adviser

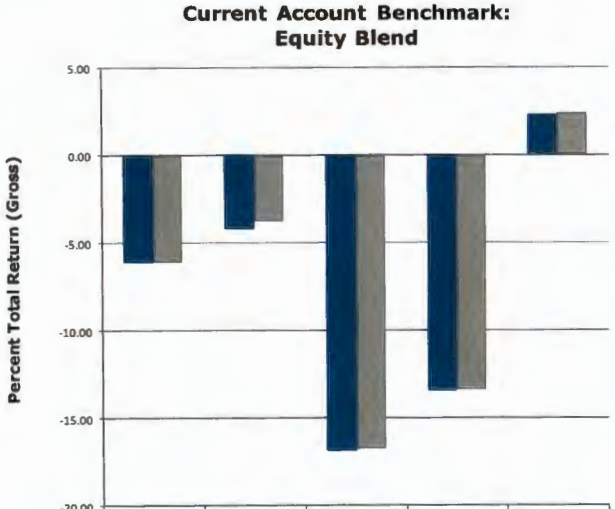
ACCOUNT ACTIVITY

Portfolio Value on 08-31-22	8,223,793
Contributions	3,902,959
Withdrawals	-1,028
Change in Market Value	-760,146
Interest	478
Dividends	29,286
Portfolio Value on 09-30-22	11,395,342

MANAGEMENT TEAM

Client Relationship Manager:	Blake Phillips, CFA® Blake@apcm.net
Your Portfolio Manager:	Brandy Niclai, CFA®
Contact Phone Number:	907/272-7575

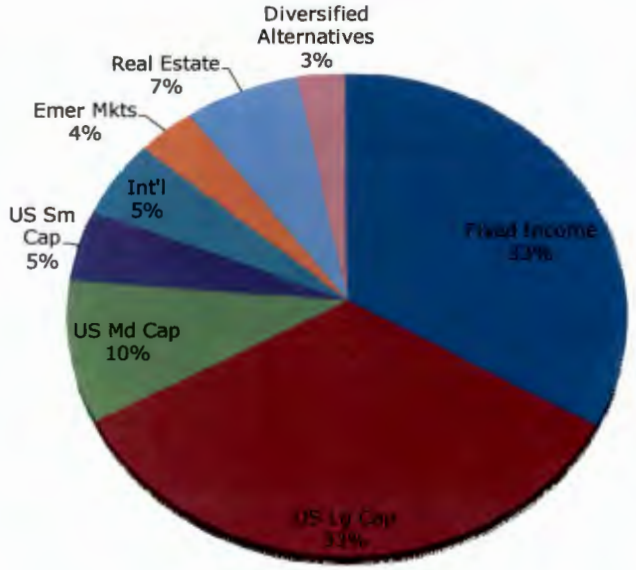
INVESTMENT PERFORMANCE



	Current Month	Current Quarter	Year to Date	Latest 1 Year	Inception to Date
Portfolio	-6.08	-4.17	-16.83	-13.43	2.31
Benchmark	-6.08	-3.74	-16.74	-13.40	2.43

Performance is Annualized for Periods Greater than One Year

PORTFOLIO COMPOSITION

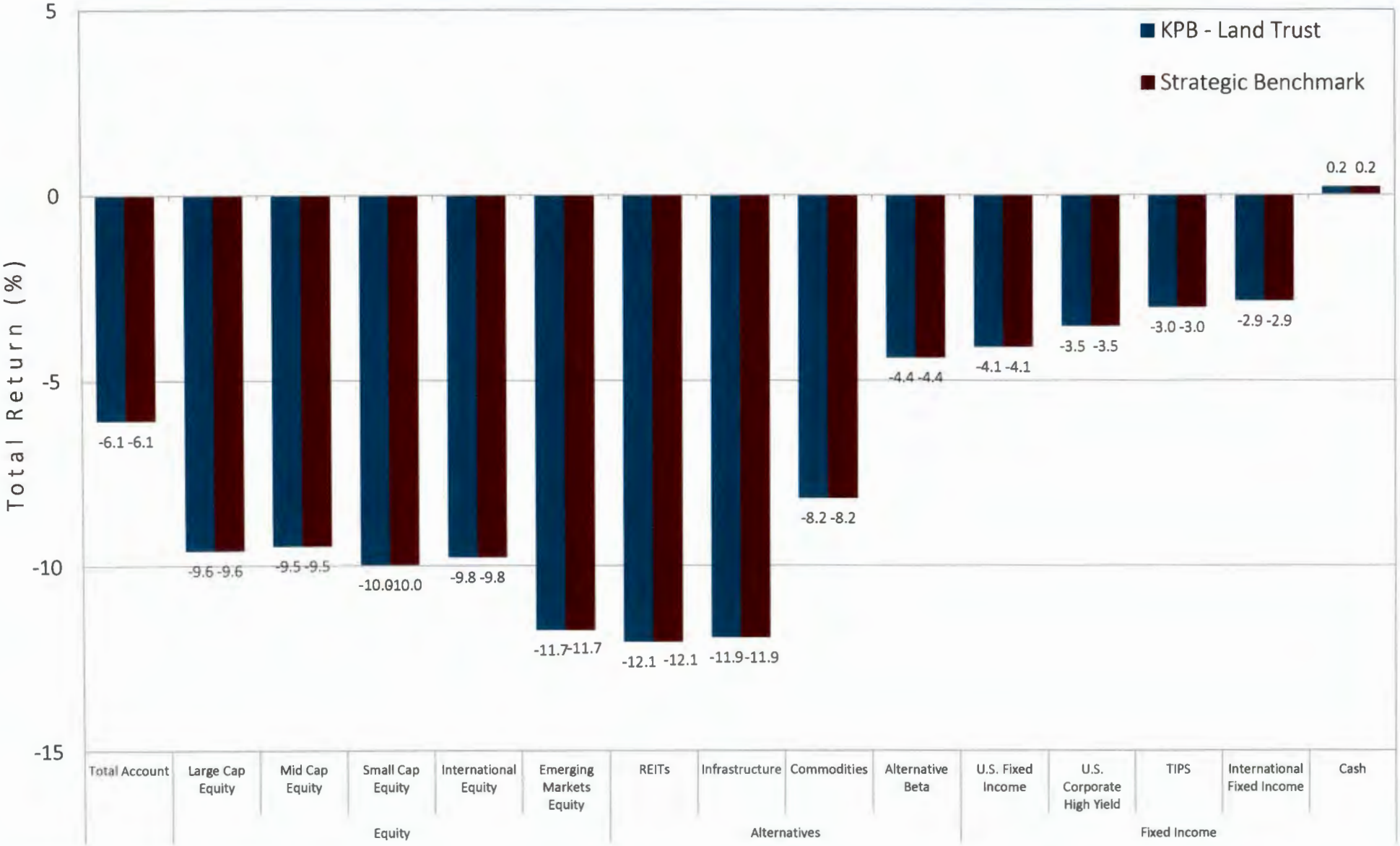


Clients are encouraged to compare this report with the official statement from their custodian.

PORTFOLIO REVIEW

Asset Class Performance *September 2022*

Kenai Peninsula Borough Land Trust Investment Fund



Performance is gross of management fees and net of internal fund fees. Benchmark performance reflects the implementation of a dollar cost averaging strategy utilized to invest the $3.9 Million deposit made on September 8th, 2022.

Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Mike Navarre, Borough Mayor

THRU: Brandi Harbaugh, Finance Director

FROM: Sarah Hostetter, Payroll Accountant SH

DATE: November 29, 2022

RE: Budget Revisions – October 2022

Attached is a budget revision listing for October 2022. The attached list contains budget revisions between major expenditure categories (i.e., maintenance & operations and capital outlay). Other minor transfers were processed between object codes within major expenditure categories.

OCTOBER 2022	INCREASE	DECREASE
FINANCE - ADMINISTRATION		
To purchase a new fax machine.		
100-11410-00000-42210 (Operating Supplies)		$630.49
100-11410-00000-48710 (Minor Office Equipment)	$630.49	
INFORMATION TECHNOLOGY		
Moving funds from a budgeted unfilled position to contract services for efficiencies and cost savings.		
100-11231-00000-40110 (Regular Wages)		$115,000.00
100-11231-00000-43011 (Contract Services)	$115,000.00	
MAYOR'S OFFICE		
To allow for promotional item purchases.		
100-11210-00000-43021 (Peninsula Promotion)		$1,200.00
100-11210-00000-42021 (Promotional Supplies)	$1,200.00	
PLANNING - GEOGRAPHIC INFO SYSTEM		
To complete the transition from out of date legacy geodatabases, and to improve the accuracy of the parcel tool.		
100-11232-00000-40110 (Regular Wages)		$35,000.00
100-11232-00000-43011 (Contract Services)	$26,300.00	
100-11232-00000-42120 (Computer Software)	$8,700.00	
PLANNING - LAND MANAGEMENT		
To address property clean up services in Hope and slope stabilization in Cooper Landing.		
250-21210-00000-40110 (Regular Wages)		$38,700.00
250-21210-00000-43011 (Contract Services)	$38,700.00	
SOLID WASTE - LANDFILL		
To cover a heavy equipment rental for the Landfill.		
290-32122-00000-43011 (Contract Services)		$13,000.00
290-32122-00000-42310 (Repair & Maintenance Supplies)		$2,000.00
290-32122-00000-43810 (Rents & Operating Leases)	$15,000.00	
SOLID WASTE - LANDFILL		
To repair the hydraulic pump on the excavator.		
290-32122-00000-42310 (Repair & Maintenance Supplies)		$15,280.19
290-32122-00000-43750 (Vehicle Maintenance)	$15,280.19	

Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Mike Navarre, Borough Mayor

THRU: Brandi Harbaugh, Finance Director BH

FROM: Sarah Hostetter, Payroll Accountant SH

DATE: November 29, 2022

RE: Revenue-Expenditure Report – October 2022

Attached is the Revenue-Expenditure Report of the General Fund for the month of October 2022. Please note that 33.33% of the year has elapsed, 48.99% of budgeted revenues have been collected, and 35.50% of budgeted expenditures have been made.

KENAI PENINSULA BOROUGH
Revenue Report
For the Period
October 1 through October 31, 2022

ACCOUNT NUMBER	DESCRIPTION	ESTIMATED REVENUE	YEAR TO DATE RECEIPTS	MONTH TO DATE RECEIPTS	VARIANCE	% COLLECTED
31100	Real Property Tax	$ 31,396,714	$ 24,069,949	$ 6,513,090	$ (7,326,765)	76.66%
31200	Personal Property Tax	1,867,988	1,369,767	342,558	(498,221)	73.33%
31300	Oil Tax	6,755,283	6,753,103	-	(2,180)	99.97%
31400	Motor Vehicle Tax	642,580	100,496	50,199	(542,084)	15.64%
31510	Property Tax Penalty & Interest	717,562	82,198	50,786	(635,364)	11.46%
31610	Sales Tax	42,000,000	11,143,400	8,097,349	(30,856,600)	26.53%
33110	In Lieu Property Tax	3,100,000	-	-	(3,100,000)	0.00%
33117	Other Federal Revenue	215,534	-	-	(215,534)	0.00%
33220	Forestry Receipts	500,000	-	-	(500,000)	0.00%
34110	School Debt Reimbursement	2,449,113	-	-	(2,449,113)	0.00%
34221	Electricity & Phone Revenue	155,000	-	-	(155,000)	0.00%
34222	Fish Tax Revenue Sharing	500,000	283,386	283,386	(216,614)	56.68%
34210	Revenue Sharing	894,402	894,402	-	-	100.00%
37350	Interest on Investments	364,493	235,038	187,953	(129,455)	64.48%
39000	Other Local Revenue	265,000	149,631	51,604	(115,369)	56.46%
290	Solid Waste	602,000	195,680	5,779	(406,320)	32.50%
Total Revenues		$ 92,425,669	$ 45,277,050	$ 15,582,704	$ (47,148,619)	48.99%

KENAI PENINSULA BOROUGH
Expenditure Report
For the Period
October 1 through October 31, 2022

DESCRIPTION	REVISED BUDGET	YEAR TO DATE EXPENDED	MONTH TO DATE EXPENDED	AMOUNT ENCUMBERED	AVAILABLE BALANCE	% EXPENDED
Assembly:						
Administration	$ 542,587	$ 184,211	$ 20,772	$ 106,939	$ 251,437	33.95%
Clerk	614,064	167,742	42,296	20,072	426,250	27.32%
Elections	474,513	112,669	104,942	109,151	252,692	23.74%
Records Management	381,831	127,605	24,120	17,735	236,491	33.42%
Mayor Administration	1,114,354	247,357	60,468	6,068	860,929	22.20%
Purch/Contracting/Cap Proj	710,159	175,551	40,575	21,392	513,216	24.72%
Human Resources:						
Administration	930,768	242,535	56,358	19,857	668,376	26.06%
Print/Mail	240,995	69,083	14,519	26,451	145,461	28.67%
Custodial Maintenance	132,655	37,496	10,516	65	95,095	28.27%
Information Technology	2,463,342	598,761	138,926	180,848	1,683,734	24.31%
Emergency Management	1,068,719	268,319	46,415	81,261	719,140	25.11%
Legal Administration	1,385,948	313,828	73,756	225,369	846,750	22.64%
Finance:						
Administration	575,568	175,191	42,447	4,984	395,393	30.44%
Services	1,197,353	396,999	72,948	38,832	761,522	33.16%
Property Tax	1,187,490	375,087	67,129	50,615	761,789	31.59%
Sales Tax	1,226,455	298,105	65,915	509	927,840	24.31%
Assessing:						
Administration	1,482,895	456,215	92,347	42,094	984,585	30.77%
Appraisal	1,784,074	498,608	132,666	8,705	1,276,761	27.95%
Resource Planning:						
Administration	1,668,055	409,948	146,351	25,185	1,232,923	24.58%
GIS	722,796	266,001	25,723	1,513	455,282	36.80%
River Center	791,460	241,639	47,637	38,344	511,477	30.53%
Senior Citizens Grant Program	791,444	-	-	791,444	-	0.00%
School District Operations	61,313,017	23,743,928	4,380,357	-	37,569,089	38.73%
Solid Waste Operations	12,466,726	3,823,316	685,321	1,850,935	6,792,475	30.67%
Economic Development	549,878	-	-	214,550	335,328	0.00%
Non-Departmental	1,767,099	1,416,684	84,112	77,775	272,641	80.17%
Total Expenditures	$ 97,584,244	$ 34,646,877	$ 6,476,616	$ 3,960,692	$ 58,976,675	35.50%