



# 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*

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Tuesday, January 3, 2023

6:00 PM

Betty J. Glick Assembly Chambers

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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.*

### ROLL CALL

[Clerk's Note: The invocation will be offered by Willy Dunne.]

### 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:**

Resolution 2023-001: Confirming Appointment to Board  
Resolution 2023-002: 2023 Shared Fisheries Business Tax Program  
Resolution 2023-003: Educational Capital Improvements  
Resolution 2023-004: CES Area General Obligation Bond  
Resolution 2023-005: CPACER Program  
Ordinance 2022-19-39: Solid Waste Capital Project Funds  
Ordinance 2023-01: Increasing the Mayor's Salary  
KPB 4819: Approving a Transfer of a Liquor License  
KPB 4812: Petition to Vacate a Right of Way

**ACTION ITEMS ELIGIBLE TO BE ADDED TO THE CONSENT AGENDA:**

Ordinance 2022-19-34: Second Amendment COVID-19 Program  
Ordinance 2022-19-35: Community Assistance 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

**APPROVAL OF MINUTES**

- \*1. [KPB-4808](#) Regular Meeting Minutes December 13, 2022

Attachments: [Regular Meeting Minutes December 13, 2022](#)

**PRESENTATIONS WITH PRIOR NOTICE**

*(20 minutes total)*

1. [KPB-4809](#) Watershed Presentation, Coowe Walker, Kachemak Bay National Estuarine Research Reserve

**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. [2022-19-34](#) 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)

Attachments:

[Ordinance 2022-19-34](#)

[Amendment Memo](#)

[Memo](#)

[Advisory Board Recommendations](#)

[Budget](#)

[Reference Copy R2021-070](#)

2. [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)

Attachments:

[Ordinance 2022-19-35](#)

[Memo](#)

[CAP Bonus Funds Calculation](#)

[Letter of Support from the State of Alaska](#)

[State of Alaska HB0281Z](#)

[Reference Copy R2022-017](#)

[Reference Copy 2013-022](#)

3. [2022-19-36](#) An Ordinance Accepting and Appropriating \$61,000 from the State of Alaska Department of Military and Veterans Affairs, Division of Homeland Security and Emergency Management for the Siren Warning System Replacement Project within the City of Homer (Mayor)

Attachments:

[Ordinance 2022-19-36](#)

[Memo](#)

[NOAA Award Letter](#)

4. [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)

Attachments: [Ordinance 2022-19-37](#)  
[Memo](#)

5. [2022-19-38](#) An Ordinance Appropriating \$475,250 from the Insurance and Litigation Fund for Additional Costs of Insurance Claims Incurred in FY2023 (Mayor)

Attachments: [Ordinance 2022-19-38](#)  
[Memo](#)

Ordinances referred to Lands Committee

6. [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](#)  
[Advisory Board Recommendations](#)  
[Oil and Gas Lease Paid-Up](#)  
[Reference O2015-19-05](#)

## NEW BUSINESS

### 1. Resolutions

Resolutions referred to Finance Committee

- \*a. [2023-002](#) A Resolution Adopting an Alternate Allocation Method for the Fiscal Year 2023 Shared Fisheries Business Tax Program and Certifying that this Allocation Method Fairly Represents the Distribution of Significant Effects of Fisheries Business Activity in the Cook Inlet Fisheries Management Area (Mayor)

Attachments: [Resolution 2023-002](#)  
[Memo](#)  
[Letter from Department of Commerce, Community, and Economic Development](#)

- \*b.**     [2023-003](#)     A Resolution Authorizing the Issuance and Sale of General Obligation Bonds, in One or More Series, of the Kenai Peninsula Borough in the Principal Amount of Not to Exceed \$65,550,000 to Finance Costs of Certain Educational Capital Improvements in the Borough; Authorizing the Sale of Such Bonds; Fixing Certain Details of Such Bonds; Pledging the Full Faith and Credit of the Borough to the Payment Thereof; and Providing for Related Matters (Mayor)

Attachments:     [Resolution 2023-003](#)  
                         [Memo](#)

- \*c.**     [2023-004](#)     A Resolution Authorizing the Kenai Peninsula Borough to Issue Its Central Emergency Service Area General Obligation Bond in an Aggregate Principal Amount Not To Exceed \$16,500,000, to Finance the Costs of a Replacement Fire Station to be Located in the Central Emergency Service Area, Fixing Certain Details of Such Bond; Pledging the Full Faith and Credit of the Central Emergency Service Area to the Payment thereof; Authorizing the Sale of Such Bond, and Providing for Related Matters (Mayor)

Attachments:     [Resolution 2023-004](#)  
                         [Memo](#)

Resolutions referred to Lands Committee

- \*d.**     [2023-005](#)     A Resolution of Intent by The Kenai Peninsula Borough Assembly Establishing that Financing of Energy and Resilience Improvement Projects through Assessments Serves a Valid Public Purpose and Related Matters (Ecklund)

Attachments:     [Resolution 2023-005](#)  
                         [Memo](#)

Resolutions referred to Policies and Procedures Committee

- \*a.**     [2023-001](#)     A Resolution Confirming An Appointment to a Non-Borough Board (Johnson)

Attachments:     [Resolution 2023-001](#)

## 2. Ordinances for Introduction

Ordinances for Introduction and referred to Finance Committee

- \*a. [2022-19-39](#) An Ordinance Deobligating and Appropriating Solid Waste Capital Project Funds Previously Appropriated for the Construction of the Funny River Transfer Site to Overhead Door Replacement at Central Peninsula Landfill (Mayor) (Hearing on 01/17/23)

Attachments: [Ordinance 2022-19-39](#)  
[Memo](#)

Ordinances for Introduction and referred to the Policies and Procedures Committee

- \*b. [2023-01](#) An Ordinance Amending KPB 2.04.060 to Increase the Mayor's Salary to \$130,000 and to Provide for an Inflation Adjustment Every Three Years (Mayor) (Hearing on 02/07/23)

Attachments: [Ordinance 2023-01](#)  
[Memo](#)

### 3. Other

Other items referred to Finance Committee

- \*a. [KPB-4819](#) Approving a Transfer of Owner/Transfer of Location from Inlet View Restaurant & Bar to Justin Cole DBA: Cole's Market LLC License No. 1350

Attachments: [Memo to Assembly](#)  
[Complete Transfer Application](#)

Other items referred to Lands Committee

- \*b. [KPB-4812](#) Petition to Vacate a 2' X 222.78' portion of an alley located between Mission Ave. & Bayview Street as dedicated on USS 3036 HM 65-66 located in the Ninilchik Area.

[Clerk's Note: At its regularly scheduled meeting of December 12, 2022 the Kenai Peninsula Borough Planning Commission approved the proposed vacation by unanimous consent.]

Attachments: [Right of Way Vacation](#)

## MAYOR'S REPORT

Mayor's Report Cover Memo

[KPB-4823](#) Mayor's Report Cover Memo

Attachments: [Mayor's Report Cover Page](#)

1. Assembly Requests/Responses - None.

2. Agreements and Contracts

- a. [KPB-4824](#) Authorization to Award a Contract for RFP23-001 Mass Notification System

Attachments: [Authorization to Award RFP23-001](#)

3. Other

- a. [KPB-4825](#) Budget Revisions - November 2022

Attachments: [Budget Revisions November 2022](#)

- b. [KPB-4826](#) Revenue-Expenditure Report - November 2022

Attachments: [Revenue Expenditure Report November 2022](#)

## **PUBLIC COMMENTS AND PUBLIC PRESENTATIONS**

## **ASSEMBLY COMMENTS**

## **PENDING LEGISLATION**

*(This item lists legislation which will be addressed at a later date as noted.)*

1.     [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) (Hearing on 03/14/23)

Attachments:

[Ordinance 2022-36](#)  
[Tupper Amendments #1-6](#)  
[Derkevorkian Amendments #1-#14](#)  
[Johnson Amendments #1-#6](#)  
[Administrative Amendments #1-#9 \(addressed @ 11/15/22 subcommittee\)](#)  
[Sectional Analysis with Potential Amendments - Planning Department](#)  
[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](#)

2.     [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](#)  
[Public Comment](#)

3. [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](#)
4. [2022-46](#) An Ordinance Amending KPB 21.02.230 to Modify the Boundaries of the Nikiski Advisory Planning Commission (Johnson, Ecklund, Tupper) (Hearing on 02/07/23)
- Attachments: [Ordinance 2022-46](#)  
[Memo](#)  
[Reference Copy O2022-41](#)
5. [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](#)

## INFORMATIONAL MATERIALS AND REPORTS

1. [KPB-4828](#) Cook Inlet Regional Citizens Advisory Council Director's Report
- Attachments: [Cook Inlet Regional Citizens Advisory Council Director's Report](#)

## ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

1. January 17, 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 17, 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](http://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](http://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*

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Tuesday, December 13, 2022

6:00 PM

Betty J. Glick Assembly Chambers

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Meeting ID: 884 7373 9641 Passcode: 671108

### CALL TO ORDER

### PLEDGE OF ALLEGIANCE

### INVOCATION

[Clerk's Note: Invocation was given by Joshua Niemuth.]

### ROLL CALL

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

Also present were:

Mike Navarre, Borough Mayor

Max Best, Chief of Staff

Sean Kelley, Borough Attorney

Brandi Harbaugh, Finance Director

Michele Turner, Acting Borough Clerk

### COMMITTEE REPORTS

Assembly Member Hibbert stated the Finance Committee met and discussed its agenda items.

Assembly Member Ecklund stated the Lands Committee met and discussed its agenda items.

Assembly Member Chesley stated the Policies and Procedures Committee met and discussed its agenda items.

Assembly Member Chesley stated the Legislative Committee met and discussed its agenda items.

## **APPROVAL OF AGENDA AND CONSENT AGENDA**

**Cox moved to approve the Agenda and Consent Agenda.**

Copies have been made available to the public, Acting Borough Clerk Michele Turner noted by title only the resolutions, ordinances and other new business items that were on the consent agenda.

[KPB-4773](#) November 15, 2022 Regular Assembly Meeting Minutes  
approved.

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

[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 enacted.**

[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 enacted.**

[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 enacted.**

[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 enacted.**

[2022-19-30](#) An Ordinance Appropriating Supplemental Funds to Land Management Operations for the Remainder of Fiscal Year 2023 (Mayor)  
**This Budget Ordinance was enacted.**

[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 enacted.**

[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 enacted.**

[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 enacted.**

#### New Business

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

*[Clerk's Note: Assembly Member Bjorkman abstained from the discussion and vote regarding Resolution 2022-059.]*

*[Clerk's Note: Section 3 of Resolution 2022-059 was amended to read, "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. Applicants for appointment may execute and file their declaration of candidacy electronically. The declaration of candidacy does not need to be notarized to be valid."]*

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

**Abstain:** 1 - Bjorkman

[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, Cox,

Chesley, Bjorkman, Elam)

*[Clerk's Note: Assembly President Johnson passed the gavel to Vice President Cox and declared a conflict as he was an east side set net fisherman. Vice President Cox ruled a conflict did exist. President Johnson abstained from the discussion and vote regarding Resolution 2022-060. Vice President Cox returned the gavel to President Johnson.]*

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

**Abstain:** 1 - Johnson

[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)

**This Budget Ordinance was introduced and set for public hearing.**

[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)

**This Budget Ordinance was introduced and set for public hearing.**

[2022-19-36](#) An Ordinance Accepting and Appropriating \$61,000 from the State of Alaska Department of Military and Veterans 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)

**This Budget Ordinance was introduced and set for public hearing.**

[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)

**This Budget Ordinance was introduced and set for public hearing.**

[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)

**This Budget Ordinance was introduced and set for public hearing.**

[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)

**This Ordinance was introduced and set for public hearing.**

[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)

**This Ordinance was introduced and set for public hearing.**

[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)

**This Ordinance was introduced and set for public hearing.**

[2022-46](#)

An Ordinance Amending KPB 21.02.230 to Modify the Boundaries of the Nikiski Advisory Planning Commission (Johnson, Ecklund, Tupper) (Hearing on 02/07/23)

**This Ordinance was introduced and set for public hearing.**

[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)

**This Ordinance was introduced and set for public hearing.**

[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

[Clerk's Note: The Planning Commission approved the referenced petition to vacate at its regular meeting on November 14, 2022 by unanimous consent.]

approved.

[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  
approved.

[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  
approved.

[KPB-4770](#) Confirming an Appointment to the Anchor Point Advisory Planning Commission (Mayor)

Joey Chamberlin, Seat D, Term to Expire 09/30/2025  
approved.

[KPB-4772](#) Confirming an Appointment to the Resilience and Security Advisory Commission (Mayor)

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

[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  
approved.

Approval of the Agenda and Consent Agenda

President Johnson called for public comment.

**Ken Coleman** spoke in support of Resolution 2022-060.

The following people spoke in opposition to Ordinance 2022-44:

**Donna Aderhold**, Homer

**Alex Koplin**, Homer

**Joan Corr**, Soldotna

**Ed Martin Jr.**, Kenai

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

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

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

## **PRESENTATIONS WITH PRIOR NOTICE**

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

*[Clerk's Note: Clayton Holland, Kenai Peninsula Borough School District Superintendent and Annaleah Karron, Kenai Peninsula Borough School District College and Career Readiness Coordinator gave a quarterly report to the assembly.]*

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

*[Clerk's Note: Jed Rigby, Director of Behavioral Health at Peninsula Community Health Services (PCHS) gave a local mental health update to the assembly.]*

## **PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA**

President Johnson called for public comment.

The following people spoke in opposition to by-mail elections:

**Norm Blakeley**, Sterling

**Joan Corr**, Soldotna

**Ed Martin Jr.**, Kenai addressed the assembly regarding absentee ballots chain of custody.

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

## **PUBLIC HEARINGS ON ORDINANCES**

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)

*[Clerk's Note: The motion to enact was on the floor from the September 6, 2022 meeting.]*

Chesley moved to postpone Ordinance 2022-36 to March 14, 2023.

President Johnson called for public comment.

The following people addressed the assembly regarding Ordinance 2022-36:

**Ed Martin III**

**Sue Mauger**, Cook Inlet Keeper

**Kaitlin Vadla**, City of Soldotna Planning and Zoning Commission

**Ed Martin Jr.**, Kenai

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

The motion to postpone Ordinance 2022-36 to March 14, 2023 carried by the following vote:

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

**MAYOR'S REPORT**

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
  - b. KPB-4799 Authorization to Award a Contract for ITB23-025 Central Peninsula Landfill Brush Burning
  - c. KPB-4800 Authorization to Award a Contract for RFP23-004 Gravel Road Design FY23
  - d. KPB-4801 Authorization to Award a Contract for ITB23-013 Kenai, Nikiski, Sterling Transfer Facilities Operation and Maintenance 2023
  - e. KPB-4802 Authorization to Award a Contract for ITB23-012 Seward Transfer Facilities Operation and Maintenance 2023



## 3. Other

- a. [KPB-4803](#) Tax Adjustment Request Approval
- b. [KPB-4804](#) Investment Report Quarter Ended 09/30/22
- c. [KPB-4805](#) Budget Revisions - October 2022
- d. [KPB-4806](#) Revenue-Expenditure Report - October 2022

**PUBLIC COMMENTS AND PUBLIC PRESENTATIONS**

President Johnson called for public comment.

**Ed Martin, Jr.**, Kenai wished everyone a Merry Christmas and to be safe.

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

**ASSEMBLY COMMENTS**

Assembly Member Elam wished Mr. Martin a Merry Christmas. He stated he appreciated everyone's hard work on Ordinance 2022-36. Mr. Elam apologized for not being at the subcommittee meeting but reassured everyone he would attend future ones. He stated he appreciated all the hard work of the Roads Department with the recent snow storm. Mr. Elam thanked everyone for a good year and wished everyone a Merry Christmas.

Assembly Member Hibbert wished everyone a Merry Christmas and a happy New Year. He reminded everyone that the holiday season may be rough on others and to keep them on your mind. He wished everyone a good evening.

Assembly Member Tupper stated he appreciated everyone who testified and all the work that was accomplished during the sub-committee meeting. Mr. Tupper stated he attended the Alaska Municipal League conference in Anchorage and it was filled with great information. He stated he would write a report that addresses all the highlights. Mr. Tupper wished everyone a good evening.

Assembly Member Derkevorkian wished everyone happy holidays, Merry Christmas and a happy New Year. He reminded everyone to be careful in the snow. He stated the Chugach National Forest has authorized motorized use and cautioned everyone of the current extremely high avalanche dangers. He encouraged everyone to check the current conditions with the Chugach Avalanche Center. Mr. Derkevorkian addressed public comments regarding by-mail voting and holding the local elections on the same

day as the State of Alaska.

Assembly Member Bjorkman thanked everyone for their participation and great presentations. He stated he also attended the Alaska Municipal League conference in Anchorage and stated there were great discussions and information provided. Mr. Bjorkman stated there was a lot of things happening in Juneau that affected the Kenai Peninsula Borough and was excited to get working on those items. He thanked all of the plow drivers and equipment operators for all their hard work. He wished everyone a Merry Christmas, enjoy the outdoors and to be safe.

Assembly Member Chesley stated it was a pleasure to serve with Jesse Bjorkman on the assembly. He stated Mr. Bjorkman had inspired him so much through his commitment to represent the constituents of his district, as well as his critical and creative thinking, stating Mr. Bjorkman was awesome. Mr. Chesley wished him all the best in Juneau and looked forward to his contributions to our state government. He also thanked all of the public servants in the borough including service area boards, city and community councils for all their volunteer hours to making our local government work. Mr. Chesley also thanked the borough staff for their committed hours to those boards. He stated he was appreciative to be a part of the culture at the borough to take things seriously and make things happen. He wished everyone a great holiday season.

Assembly Member Ecklund stated it was an interesting first year for her on the assembly, stating she appreciated the public input. She thanked the administration and staff who support their work. Ms. Ecklund stated that after listening to Senator Micciche's comments, she would like the borough to pursue legislative priorities so they may take current documentation to Juneau. She encouraged everyone to enjoy the time spent with their families and neighbors this holiday season.

Vice President Cox stated the filing period for appointment to Assembly District 3 - Nikiski seat is December 14, 2022 through January 10, 2023 at 4:30 p.m. He wished everyone a Merry Christmas. He also reminded everyone of upcoming high school sports events.

President Johnson appreciated everyone who attended and provided testimony. He stated his neighbor Gary Spruill pass away last week and offered his condolences. Mr. Johnson wished everyone a Merry Christmas and a happy New Year. He stated he really enjoyed doing this job; it was an honor to serve the public, craft legislation and bring people together to be part of government. Mr. Johnson stated he was excited for Mr. Bjorkman to begin his new journey in Juneau.

## **ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS**

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**

With no further business to come before the assembly, President Johnson adjourned the meeting at 9:05 p.m.

I certify the above represents accurate minutes of the Kenai Peninsula Borough Assembly meeting of December 13, 2022.

\_\_\_\_\_  
Michele Turner, CMC, Acting Borough Clerk

Approved by the Assembly: \_\_\_\_\_

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 November 14, 2022 the Nikiski Fire Service Area Board recommended approval by unanimous consent; 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.**

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Brent Johnson, Assembly President

ATTEST:

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Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

# Kenai Peninsula Borough

## Office of Emergency Management

### MEMORANDUM

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

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

**FROM:** Brenda Ahlberg, Emergency Manager *BA*

**DATE:** December 21, 2022

**RE:** Amendment to 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 following amendments to Ordinance 2022-19-34 are requested: [Please note, the bold underlined is to be added.]

- ~~Amend the eighth whereas clause, as follows:~~ **[No amendment needed. The eighth Whereas clause was updated per KPB 22.40.050(F)]**

~~**WHEREAS,** at its regular meeting of November 14, 2022 the Nikiski Fire Service Area Board recommended unanimous to appropriate \$37,000; and~~

- Amend Section 3, as follows:

**SECTION 3.** That **\$37,000** is appropriated from the Nikiski Fire Service Area Operating Fund to be transferred to account 441.51110.21VAC.49999 for the signage project.

Your consideration of the amendments is appreciated.

FINANCE DEPARTMENT FUNDS/ACCOUNT VERIFIED	
Account:	<u>206.27910</u>
Amount:	<u>\$ 37,000</u>
By: <i>CJ</i>	Date: <u>12/19/2022</u>

# Kenai Peninsula Borough

## Office of Emergency Management

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### 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)

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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.



Page -2-  
 December 1, 2022  
 RE: O2022-19-34

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<u>Project</u>	<u>Grant Funds</u>
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)	<u>\$252,000.00</u>
	<u><b>\$309,856.22</b></u>

<u>Service Area</u>	<u>Account</u>	<u>Local Funds</u>
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. <u>NFSA 206.27910</u>	Amt: \$ _____
Acct. No. <u>CES 211.27910</u>	Amt: \$ 40,000
Acct. No. <u>KESA 212.27910</u>	Amt: \$ 10,000
Acct. No. <u>271.11250.21VAC.49999</u>	Amt: \$ 90,390.87
Acct. No. <u>271.61110.21VAC.49999</u>	Amt: \$182,139.13
Acct. No. <u>271.61210.21VAC.49999</u>	Amt: \$ 36,226.59
Acct. No. <u>271.81110.21VAC.49999</u>	AMT: \$ 1,099.63

By: CS Date: 12/1/2022

Kenai Peninsula Borough  
Office of the Borough Clerk

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**MEMORANDUM**

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

**FROM:** Michele Turner, Acting Borough Clerk (MT)

**DATE:** December 21, 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)40.050

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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.

The eighth Whereas clause has been updated to read:

**WHEREAS,** at its regularly scheduled meeting of November 14, 2022, recommended approval by unanimous consent; and

Thank you.

**Turner, Michele**

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**Subject:** FW: KPB Ordinance 2022-19-34

**From:** Burnett, Trent  
**Sent:** Thursday, December 15, 2022 9:56 AM  
**To:** Ahlberg, Brenda  
**Cc:** Ledahl, Bryan; White, Rhonda  
**Subject:** COVID19 Community Funding Program Grant

Good Morning,  
NFSA held their regularly scheduled board meeting last night and voted unanimously to Accept the COVID19 Community Funding program Grant for \$63,000 and any addition funds needed up to \$37,000 will come from our fund balance. This funding is for the electronic signage at station #3.

Thank you,

*Trent Burnett*  
**Fire Chief**  
**Nikiski Fire Dept.**  
(907) 776-6401  
(907) 398-4101

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**From:** Turner, Michele  
**Sent:** Wednesday, December 21, 2022 12:24 PM  
**To:** Burnett, Trent  
**Cc:** White, Rhonda  
**Subject:** KPB Ordinance 2022-19-34

Good afternoon Chief,

Did the Nikiski Fire Service Area board discuss Ordinance 2022-19-34 at their December 14, 2022 meeting?

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)

Do you know what their recommendations were? Was the vote unanimous?

We have a blank we need to fill-in in the ordinance.

Thanks for your help!

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	
						<u>Revised Budget</u>	<u>Actuals</u>	<u>Remaining</u>	
						\$ 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.

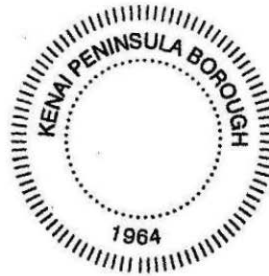
**SECTION 3.** That this resolution shall become effective immediately upon its adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF SEPTEMBER, 2021.**



Brent Hibbert, Assembly President

ATTEST:

  
Jonni Blankenship, MMC, Borough Clerk

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:

<b>FY2022/2023 Community Assistance Program - Recipients and Projects</b>				
<b>Community</b>	<b>Recipient</b>	<b>Project</b>	<b>CAP Amount</b>	<b>Bonus Amount</b>
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
<b>TOTAL TO COMMUNITIES</b>			<b>\$402,303.72</b>	<b>\$ 302,706.24</b>

**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:

# Kenai Peninsula Borough

## Community & Fiscal Projects

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### 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)

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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

Page -2-  
December 1, 2022  
Re: O2022-19-35

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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.

<b>FINANCE DEPARTMENT FUNDS/ACCOUNT VERIFIED</b>	
<b>Acct. No.</b> <u>271.94910.23CAP.49999</u>	
<b>Amount:</b> \$ <u>719,397.91</u>	
By: <u>CS</u>	Date: <u>12/2/2022</u>

Kenai Peninsula Borough  
CAP Allocation of Bonus Amounts  
#####

**Additional Allocation Amount**

**Community Name:**                      **Number of    % of total Applied to amount**  
   **Citizens 2020**  
   **Census**

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



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

**Department of Commerce, Community,  
and Economic Development**  
DIVISION OF COMMUNITY AND REGIONAL AFFAIRS  
Fairbanks Office

455 Third Avenue, Suite 140  
Fairbanks, Alaska 99701-3110  
Main: 907.451.2718  
Fax: 907.451.2742

August 11, 2022

Mayor  
Kenai Peninsula Borough  
144 North Binkley Street  
Soldotna, AK 99669

RE: FY23 Community Assistance Program (CAP) and Supplemental Payment

Dear Mayor:

The Alaska Legislature included an additional \$7.1M appropriation to the Community Assistance fund in HB 281. This appropriation brought the total amount of funding available for distribution to eligible municipalities, reserves, and communities to \$37,094,778.

Each unincorporated community the borough assembly certified as meeting the eligibility criteria under AS 29.60.865, AS 29.60.879, and 3 AAC 180.110 will receive an additional \$15,789.00. Boroughs that submitted all required financial documents will be issued both the CAP and Supplemental Payment. There are no additional requirements.

To check your CAP status go to the DCRA website at:  
<https://www.commerce.alaska.gov/dcra/eGrantsOnline/Pages/RevenueSharing.aspx>  
The status report will reflect the required financial documentation needed to receive payment.

The Kenai Peninsula Borough FY23 CAP distribution payment breakdown is:

FY23 CAP	\$1,304,916.13
FY23 Supplemental	\$308,883.92
<b>Total</b>	<b>\$1,613,800.05</b>

If there are any questions concerning the CAP payments, please contact me at (907) 451-2718 or [caa@alaska.gov](mailto:caa@alaska.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Kimberly Phillips".

Kimberly Phillips  
Grant Administrator 3



# LAWS OF ALASKA

2022

**Source**

CCS HB 281(brf sup maj fld H)

**Chapter No.**

\_\_\_\_\_

**AN ACT**

Making appropriations for the operating and loan program expenses of state government and for certain programs; capitalizing funds; amending appropriations; making capital appropriations, supplemental appropriations, and reappropriations; and providing for an effective date.

\_\_\_\_\_

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

THE ACT FOLLOWS ON PAGE 1



**AN ACT**

1 Making appropriations for the operating and loan program expenses of state government and  
2 for certain programs; capitalizing funds; amending appropriations; making capital  
3 appropriations, supplemental appropriations, and reappropriations; and providing for an  
4 effective date.

5

6

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(SECTION 1 OF THIS ACT BEGINS ON PAGE 2)

\* **Section 1.** The following appropriation items are for operating expenditures from the general fund or other funds as set out in section 3 of this Act to the agencies named for the purposes expressed for the fiscal year beginning July 1, 2022 and ending June 30, 2023, unless otherwise indicated. A department-wide, agency-wide, or branch-wide unallocated reduction set out in this section may be allocated among the appropriations made in this section to that department, agency, or branch.

	Appropriation	General	Other
	Allocations	Funds	Funds
	* * * * *	* * * * *	
	* * * * * <b>Department of Administration</b> * * * * *		
	* * * * *	* * * * *	

**Centralized Administrative Services                      98,454,800      11,281,000      87,173,800**

The amount appropriated by this appropriation includes the unexpended and unobligated balance on June 30, 2022, of inter-agency receipts collected in the Department of Administration's federally approved cost allocation plans.

Office of Administrative                      2,651,600

Hearings

DOA Leases                      1,131,800

Office of the Commissioner                      1,219,300

Administrative Services                      2,991,200

Finance                      22,619,200

The amount allocated for Finance includes the unexpended and unobligated balance on June 30, 2022, of program receipts from credit card rebates.

Personnel                      9,975,400

The amount allocated for the Division of Personnel for the Americans with Disabilities Act includes the unexpended and unobligated balance on June 30, 2022, of inter-agency receipts collected for cost allocation of the Americans with Disabilities Act.

Labor Relations                      1,383,100

Centralized Human Resources                      112,200

Retirement and Benefits                      20,654,600

Of the amount appropriated in this allocation, up to \$500,000 of budget authority may be

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Items</b>	<b>Funds</b>
transferred between the following fund codes: Group Health and Life Benefits Fund 1017,				
Public Employees Retirement Trust Fund 1029, Teachers Retirement Trust Fund 1034,				
Judicial Retirement System 1042, National Guard Retirement System 1045.				
Health Plans Administration	35,678,900			
Labor Agreements	37,500			
Miscellaneous Items				
<b>Shared Services of Alaska</b>		<b>20,176,300</b>	<b>6,928,900</b>	<b>13,247,400</b>
The amount appropriated by this appropriation includes the unexpended and unobligated				
balance on June 30, 2022, of inter-agency receipts and general fund program receipts				
collected in the Department of Administration's federally approved cost allocation plans,				
which includes receipts collected by Shared Services of Alaska in connection with its debt				
collection activities.				
Office of Procurement and	9,067,400			
Property Management				
Accounting	8,900,000			
Print Services	2,208,900			
<b>Administration State Facilities Rent</b>		<b>506,200</b>	<b>506,200</b>	
Administration State	506,200			
Facilities Rent				
<b>Public Communications Services</b>		<b>2,379,500</b>	<b>2,279,500</b>	<b>100,000</b>
Public Broadcasting - Radio	1,500,000			
It is the intent of the legislature that the Department of Administration allocate funds for radio				
grants to rural stations whose broadcast coverage areas serve 20,000 people or less.				
Satellite Infrastructure	879,500			
<b>Office of Information Technology</b>		<b>63,920,500</b>		<b>63,920,500</b>
Alaska Division of	63,920,500			
Information Technology				
<b>Risk Management</b>		<b>40,593,300</b>		<b>40,593,300</b>
Risk Management	40,593,300			
The amount appropriated by this appropriation includes the unexpended and unobligated				
balance on June 30, 2022, of inter-agency receipts collected in the Department of				

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Items</b>	<b>Funds</b>
1				
2				
3	Administration's federally approved cost allocation plan.			
4	<b>Legal and Advocacy Services</b>	<b>62,523,900</b>	<b>60,438,500</b>	<b>2,085,400</b>
5	It is the intent of the legislature that the Department of Administration use the additional			
6	funding included in this appropriation to provide retention bonuses to the Public Defender			
7	Agency and the Office of Public Advocacy staff who are employed on June 30, 2022, and			
8	who continue to be employed on May 31, 2023. It is the intent of the legislature that bonuses			
9	be allocated as follows: \$10,000 for attorney positions; \$5,000 for associate attorneys,			
10	paralegals, investigators, or similar positions; and \$3,000 for law office assistants, public			
11	guardians, and general office personnel. It is not the intent of the legislature to provide			
12	bonuses to the Public Defender, the Office of Public Advocacy Division Director, or			
13	nonpermanent positions.			
14	Office of Public Advocacy	29,693,300		
15	Public Defender Agency	32,830,600		
16	<b>Alaska Public Offices Commission</b>	<b>1,071,500</b>	<b>1,071,500</b>	
17	Alaska Public Offices	1,071,500		
18	Commission			
19	<b>Motor Vehicles</b>	<b>18,799,200</b>	<b>18,228,300</b>	<b>570,900</b>
20	Motor Vehicles	18,799,200		
21	<b>Agency Unallocated</b>	<b>608,600</b>	<b>278,200</b>	<b>330,400</b>
22	Unallocated Rates	608,600		
23	Adjustment			
24		* * * * *	* * * * *	
25	* * * * * <b>Department of Commerce, Community and Economic Development</b> * * * * *			
26		* * * * *	* * * * *	
27	<b>Executive Administration</b>	<b>6,696,000</b>	<b>1,161,800</b>	<b>5,534,200</b>
28	Commissioner's Office	1,617,400		
29	Administrative Services	4,565,600		
30	Alaska Broadband Office	513,000		
31	<b>Banking and Securities</b>	<b>4,314,400</b>	<b>4,314,400</b>	
32	Banking and Securities	4,314,400		
33	<b>Community and Regional Affairs</b>	<b>16,118,400</b>	<b>10,672,500</b>	<b>5,445,900</b>



		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Items</b>	<b>Funds</b>
1				
2				
3	Community and Regional	13,977,000		
4	Affairs			
5	It is the intent of the legislature that the Department of Commerce, Community and Economic			
6	Development submit a written report to the co-chairs of the Finance Committees and the			
7	Legislative Finance Division by December 20, 2022 that indicates:			
8	(1) the amount each community in the state that participates in the National Flood Insurance			
9	Program has paid into the program since 1980, the amount that has been paid out of the			
10	program for claims, and the average premium for a home in a special flood hazard area;			
11	(2) for the top five states that have received more in funds paid out than premiums paid into			
12	the National Flood Insurance Program since 1980, the amount paid into the program, the			
13	amount of claims paid out of the program, and the average premium for a home in a special			
14	flood hazard area; and			
15	(3) the number of properties in each community in the state that has been added to a special			
16	flood hazard area through mapping efforts by the Federal Emergency Management Agency			
17	since 2010.			
18	Serve Alaska	2,141,400		
19	<b>Revenue Sharing</b>		<b>14,128,200</b>	<b>14,128,200</b>
20	Payment in Lieu of Taxes	10,428,200		
21	(PILT)			
22	National Forest Receipts	600,000		
23	Fisheries Taxes	3,100,000		
24	<b>Corporations, Business and</b>		<b>17,234,800</b>	<b>16,167,100</b>
25	<b>Professional Licensing</b>			<b>1,067,700</b>
26	The amount appropriated by this appropriation includes the unexpended and unobligated			
27	balance on June 30, 2022, of receipts collected under AS 08.01.065(a), (c) and (f)-(i).			
28	Corporations, Business and	17,234,800		
29	Professional Licensing			
30	It is the intent of the legislature that the Department of Commerce, Community and Economic			
31	Development, Division of Corporations, Business and Professional Licensing to develop a			
32	plan to stabilize and set fee structures; develop a new system for leveling the cost of appeals			
33	and investigations; and target fee relief for industries and occupations that are high need and			

	Appropriation	General	Other
	Allocations	Funds	Funds
have high cost of entry. The Department shall provide the plan to the Finance Co-Chairs and the Legislative Finance Division no later than December 20, 2022.			
<b>Investments</b>	<b>5,517,900</b>	<b>5,517,900</b>	
Investments	5,517,900		
<b>Insurance Operations</b>	<b>9,532,400</b>	<b>8,960,500</b>	<b>571,900</b>
The amount appropriated by this appropriation includes up to \$1,000,000 of the unexpended and unobligated balance on June 30, 2022, of the Department of Commerce, Community, and Economic Development, Division of Insurance, program receipts from license fees and service fees.			
Insurance Operations	9,532,400		
It is the intent of the legislature that the Department of Commerce, Community and Economic Development, Division of Insurance, pursue procurement of a Health Payment and Utilization Database for no greater than \$1,500,000. The Division may adopt regulations or utilize rule making to govern administration, reporting requirements, and data management to the extent that the authority is granted to the Division Director in existing statute. Nothing in this intent language is intended to broaden the Division's existing scope or authority. The Division shall provide a report to the legislature no later than December 20, 2022 outlining the projected operating and capital costs for procurement, maintenance, and administration.			
<b>Alaska Oil and Gas Conservation</b>	<b>8,064,600</b>	<b>7,894,600</b>	<b>170,000</b>
<b>Commission</b>			
Alaska Oil and Gas	8,064,600		
Conservation Commission			
The amount appropriated by this appropriation includes the unexpended and unobligated balance on June 30, 2022, of the Alaska Oil and Gas Conservation Commission receipts account for regulatory cost charges collected under AS 31.05.093.			
<b>Alcohol and Marijuana Control Office</b>	<b>3,991,400</b>	<b>3,991,400</b>	
The amount appropriated by this appropriation includes the unexpended and unobligated balance on June 30, 2022, not to exceed the amount appropriated for the fiscal year ending on June 30, 2023, of the Department of Commerce, Community and Economic Development, Alcohol and Marijuana Control Office, program receipts from the licensing and application fees related to the regulation of alcohol and marijuana.			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Alcohol and Marijuana	3,991,400		
4	Control Office			
5	<b>Alaska Gasline Development Corporation</b>	<b>3,082,100</b>		<b>3,082,100</b>
6	Alaska Gasline Development	3,082,100		
7	Corporation			
8	<b>Alaska Energy Authority</b>	<b>8,499,000</b>	<b>3,674,600</b>	<b>4,824,400</b>
9	Alaska Energy Authority	780,700		
10	Owned Facilities			
11	Alaska Energy Authority	5,518,300		
12	Rural Energy Assistance			
13	Statewide Project	2,200,000		
14	Development, Alternative			
15	Energy and Efficiency			
16	<b>Alaska Industrial Development and</b>	<b>15,538,700</b>		<b>15,538,700</b>
17	<b>Export Authority</b>			
18	Alaska Industrial	15,201,700		
19	Development and Export			
20	Authority			
21	Alaska Industrial	337,000		
22	Development Corporation			
23	Facilities Maintenance			
24	<b>Alaska Seafood Marketing Institute</b>	<b>26,536,300</b>	<b>5,000,000</b>	<b>21,536,300</b>
25	The amount appropriated by this appropriation includes the unexpended and unobligated			
26	balance on June 30, 2022 of the statutory designated program receipts from the seafood			
27	marketing assessment (AS 16.51.120) and other statutory designated program receipts of the			
28	Alaska Seafood Marketing Institute.			
29	Alaska Seafood Marketing	26,536,300		
30	Institute			
31	<b>Regulatory Commission of Alaska</b>	<b>9,825,000</b>	<b>9,685,100</b>	<b>139,900</b>
32	The amount appropriated by this appropriation includes the unexpended and unobligated			
33	balance on June 30, 2022, of the Department of Commerce, Community, and Economic			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
3	Development, Regulatory Commission of Alaska receipts account for regulatory cost charges			
4	under AS 42.05.254, AS 42.06.286, and AS 42.08.380.			
5	Regulatory Commission of	9,825,000		
6	Alaska			
7	<b>DCCED State Facilities Rent</b>	<b>1,359,400</b>	<b>599,200</b>	<b>760,200</b>
8	DCCED State Facilities Rent	1,359,400		
9	<b>Agency Unallocated</b>	<b>326,400</b>	<b>178,400</b>	<b>148,000</b>
10	Unallocated Rates	326,400		
11	Adjustment			
12	*****	*****		
13	***** <b>Department of Corrections</b> *****			
14	*****	*****		
15	It is the intent of the legislature that the Department of Corrections work with the Department			
16	of Health to devise a proposal before July 1, 2023, to establish an oversight body to oversee			
17	standards of care for health care services and behavioral health services provided to inmates.			
18	<b>Facility-Capital Improvement Unit</b>	<b>1,585,400</b>	<b>1,585,400</b>	
19	Facility-Capital	1,585,400		
20	Improvement Unit			
21	<b>Administration and Support</b>	<b>10,325,300</b>	<b>9,868,600</b>	<b>456,700</b>
22	Office of the Commissioner	1,116,300		
23	Administrative Services	5,411,200		
24	Information Technology MIS	2,387,600		
25	Research and Records	1,120,300		
26	DOC State Facilities Rent	289,900		
27	<b>Population Management</b>	<b>268,239,700</b>	<b>251,816,100</b>	<b>16,423,600</b>
28	Recruitment and Retention	554,100		
29	Correctional Academy	1,536,800		
30	Institution Director's	2,456,800		
31	Office			
32	Classification and Furlough	1,228,500		
33	Out-of-State Contractual	300,000		

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Inmate Transportation	3,812,800		
4	Point of Arrest	628,700		
5	Anchorage Correctional	35,031,800		
6	Complex			
7	The amount allocated for the Anchorage Correctional Complex includes the unexpended and			
8	unobligated balance on June 30, 2022, of federal receipts received by the Department of			
9	Corrections through manday billings.			
10	Anvil Mountain Correctional	7,448,400		
11	Center			
12	Combined Hiland Mountain	16,522,000		
13	Correctional Center			
14	Fairbanks Correctional	13,153,800		
15	Center			
16	Goose Creek Correctional	44,552,200		
17	Center			
18	Ketchikan Correctional	5,191,000		
19	Center			
20	Lemon Creek Correctional	11,866,000		
21	Center			
22	Matanuska-Susitna	7,359,100		
23	Correctional Center			
24	Palmer Correctional Center	16,776,100		
25	Spring Creek Correctional	25,460,800		
26	Center			
27	Wildwood Correctional	16,843,700		
28	Center			
29	Yukon-Kuskokwim	10,526,500		
30	Correctional Center			
31	Point MacKenzie	4,744,700		
32	Correctional Farm			
33	Probation and Parole	1,033,300		

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Director's Office			
4	Pre-Trial Services	10,991,400		
5	Statewide Probation and	18,274,900		
6	Parole			
7	Regional and Community	10,000,000		
8	Jails			
9	Parole Board	1,946,300		
10	<b>Community Residential Centers</b>	<b>16,987,400</b>	<b>16,987,400</b>	
11	Community Residential	16,987,400		
12	Centers			
13	<b>Electronic Monitoring</b>	<b>2,281,700</b>	<b>2,281,700</b>	
14	Electronic Monitoring	2,281,700		
15	<b>Health and Rehabilitation Services</b>	<b>76,985,700</b>	<b>69,392,000</b>	<b>7,593,700</b>
16	Health and Rehabilitation	1,060,000		
17	Director's Office			
18	Physical Health Care	65,594,800		
19	Behavioral Health Care	4,481,800		
20	Substance Abuse Treatment	4,048,100		
21	Program			
22	Sex Offender Management	1,026,100		
23	Program			
24	Reentry Unit	774,900		
25	<b>Offender Habilitation</b>	<b>184,400</b>	<b>28,100</b>	<b>156,300</b>
26	Education Programs	184,400		
27	<b>Recidivism Reduction Grants</b>	<b>1,003,600</b>	<b>3,600</b>	<b>1,000,000</b>
28	Recidivism Reduction Grants	1,003,600		
29	<b>24 Hour Institutional Utilities</b>	<b>11,662,600</b>	<b>11,662,600</b>	
30	24 Hour Institutional	11,662,600		
31	Utilities			
32	<b>Agency Unallocated</b>	<b>869,000</b>	<b>797,000</b>	<b>72,000</b>
33	Unallocated Rates	869,000		

		Appropriation	General	Other
		Allocations	Funds	Funds
Adjustment				
	*****		*****	
	***** Department of Education and Early Development *****			
	*****		*****	
<b>K-12 Aid to School Districts</b>		<b>20,791,000</b>		<b>20,791,000</b>
Foundation Program	20,791,000			
<b>K-12 Support</b>		<b>13,706,300</b>	<b>13,706,300</b>	
Residential Schools Program	8,535,800			
Youth in Detention	1,100,000			
Special Schools	4,070,500			
<b>Education Support and Admin Services</b>		<b>253,179,700</b>	<b>27,300,500</b>	<b>225,879,200</b>
Executive Administration	1,058,100			
Administrative Services	2,069,700			
Information Services	1,199,100			
School Finance & Facilities	2,569,800			
Child Nutrition	77,154,200			
Student and School	152,334,800			
Achievement				
State System of Support	1,906,900			
Teacher Certification	968,600			
The amount allocated for Teacher Certification includes the unexpended and unobligated balance on June 30, 2022, of the Department of Education and Early Development receipts from teacher certification fees under AS 14.20.020(c).				
Early Learning Coordination	8,218,500			
Pre-Kindergarten Grants	5,700,000			
<b>Alaska State Council on the Arts</b>		<b>3,877,700</b>	<b>701,800</b>	<b>3,175,900</b>
Alaska State Council on the	3,877,700			
Arts				
<b>Commissions and Boards</b>		<b>258,300</b>	<b>258,300</b>	
Professional Teaching	258,300			
Practices Commission				

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
3	<b>Mt. Edgecumbe High School</b>	<b>14,702,200</b>	<b>5,299,400</b>	<b>9,402,800</b>
4	The amount appropriated by this appropriation includes the unexpended and unobligated			
5	balance on June 30, 2022, of inter-agency receipts collected by Mt. Edgecumbe High School,			
6	not to exceed the amount authorized in AS 14.17.505(a).			
7	Mt. Edgecumbe Aquatic	552,000		
8	Center			
9	The amount allocated for Mt. Edgecumbe Aquatic Center includes the unexpended and			
10	unobligated balance on June 30, 2022, of program receipts from aquatic center fees.			
11	Mt. Edgecumbe High School	12,955,700		
12	Mt. Edgecumbe High School	1,194,500		
13	Facilities Maintenance			
14	<b>State Facilities Rent</b>	<b>1,068,200</b>	<b>1,068,200</b>	
15	EED State Facilities Rent	1,068,200		
16	<b>Alaska State Libraries, Archives and</b>	<b>18,089,300</b>	<b>16,025,500</b>	<b>2,063,800</b>
17	<b>Museums</b>			
18	Library Operations	6,020,500		
19	Archives	1,310,000		
20	Museum Operations	1,980,400		
21	The amount allocated for Museum Operations includes the unexpended and unobligated			
22	balance on June 30, 2022, of program receipts from museum gate receipts.			
23	Online with Libraries (OWL)	477,200		
24	Live Homework Help	138,200		
25	Andrew P. Kashevaroff	1,365,100		
26	Facilities Maintenance			
27	Broadband Assistance Grants	6,797,900		
28	<b>Alaska Commission on Postsecondary</b>	<b>13,655,000</b>	<b>3,860,800</b>	<b>9,794,200</b>
29	<b>Education</b>			
30	Program Administration &	10,360,100		
31	Operations			
32	WWAMI Medical Education	3,294,900		
33	It is the intent of the legislature that the Department of Education and Early Development and			



	Appropriation	General	Other
	Allocations	Funds	Funds
the Alaska Commission on Postsecondary Education (ACPE) work to expand the number of seats for Alaska in the WWAMI program from 20 to 30, for implementation in FY24. Further, ACPE and the University of Alaska shall coordinate and plan for their separate and combined needs for the program expansion, and report to the Co-Chairs of Finance and the Legislative Finance Division by December 20, 2022, policy, program, and budget needs for implementation of this expansion.			
It is the intent of the legislature that the Department of Education and Early Development and the Alaska Commission on Postsecondary Education (ACPE) work with the University of Alaska and University of Washington School of Medicine to undertake a concerted effort to recruit students from Rural Alaska to apply to Alaska's medical school program. Because of the shortage of medical doctors in Rural Alaska it is imperative that more students from rural areas be admitted into medical school.			
<b>Alaska Student Loan Corporation</b>	<b>9,794,500</b>		<b>9,794,500</b>
Loan Servicing	9,794,500		
<b>Student Financial Aid Programs</b>	<b>17,591,800</b>	<b>17,591,800</b>	
Alaska Performance	11,750,000		
Scholarship Awards			
Alaska Education Grants	5,841,800		
<b>Agency Unallocated</b>	<b>362,500</b>	<b>119,400</b>	<b>243,100</b>
Unallocated Rates	362,500		
Adjustment			
	*****	*****	
***** <b>Department of Environmental Conservation</b> *****			
	*****	*****	
<b>Administration</b>	<b>9,970,000</b>	<b>4,384,400</b>	<b>5,585,600</b>
Office of the Commissioner	1,680,400		
Administrative Services	5,458,200		
The amount allocated for Administrative Services includes the unexpended and unobligated balance on June 30, 2022, of receipts from all prior fiscal years collected under the Department of Environmental Conservation's federal approved indirect cost allocation plan for expenditures incurred by the Department of Environmental Conservation.			

		Appropriation	General	Other
	Allocations	Items	Funds	Funds
State Support Services	2,831,400			
<b>DEC Buildings Maintenance and Operations</b>		<b>787,900</b>	<b>662,900</b>	<b>125,000</b>
DEC Buildings Maintenance and Operations	787,900			
<b>Environmental Health</b>		<b>27,197,400</b>	<b>12,162,400</b>	<b>15,035,000</b>
Environmental Health	27,197,400			
<b>Air Quality</b>		<b>11,395,100</b>	<b>2,369,300</b>	<b>9,025,800</b>
Air Quality	11,395,100			
The amount allocated for Air Quality includes the unexpended and unobligated balance on June 30, 2022, of the Department of Environmental Conservation, Division of Air Quality general fund program receipts from fees collected under AS 46.14.240 and AS 46.14.250.				
<b>Spill Prevention and Response</b>		<b>20,960,300</b>	<b>13,782,900</b>	<b>7,177,400</b>
Spill Prevention and Response	20,960,300			
<b>Water</b>		<b>31,406,500</b>	<b>8,745,100</b>	<b>22,661,400</b>
Water Quality, Infrastructure Support & Financing	31,406,500			

It is the Intent of the Legislature that \$1 million is appropriated for the purpose of the Department of Environmental Conservation to complete a feasibility study on the assumption of primacy of section 404 of the Clean Water Act. The report will be submitted to the four co-chairs of the Finance Committees and Division of Legislative Finance by February 1, 2023.

<b>Agency Unallocated</b>		<b>280,800</b>	<b>146,100</b>	<b>134,700</b>
Unallocated Rates Adjustment	280,800			

\* \* \* \* \*

\* \* \* \* \* **Department of Family and Community Services** \* \* \* \* \*

\* \* \* \* \*

At the discretion of the Commissioner of the Department of Family and Community Services, up to \$10,000,000 may be transferred between all appropriations in the Department of Family

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Items</b>	<b>Funds</b>
1				
2				
3	and Community Services and the Department shall submit a report of transfers between			
4	appropriations that occurred during the fiscal year ending June 30, 2023, to the Legislative			
5	Finance Division by September 30, 2023.			
6	<b>Alaska Pioneer Homes</b>	<b>104,772,800</b>	<b>58,760,500</b>	<b>46,012,300</b>
7	Alaska Pioneer Homes	33,964,300		
8	Payment Assistance			
9	Alaska Pioneer Homes	1,731,800		
10	Management			
11	Pioneer Homes	69,076,700		
12	The amount allocated for Pioneer Homes includes the unexpended and unobligated balance			
13	on June 30, 2022, of the Department of Health and Social Services, Pioneer Homes care and			
14	support receipts under AS 47.55.030.			
15	<b>Inpatient Mental Health</b>	<b>48,212,000</b>	<b>8,488,100</b>	<b>39,723,900</b>
16	Designated Evaluation and	9,000,000		
17	Treatment			
18	Alaska Psychiatric	39,212,000		
19	Institute			
20	<b>Children's Services</b>	<b>190,982,400</b>	<b>109,388,600</b>	<b>81,593,800</b>
21	Children's Services	9,922,900		
22	Management			
23	Children's Services	1,620,700		
24	Training			
25	Front Line Social Workers	79,256,400		
26	Family Preservation	15,522,100		
27	Foster Care Base Rate	22,569,900		
28	Foster Care Augmented Rate	1,002,600		
29	Foster Care Special Need	13,047,300		
30	Subsidized Adoptions &	43,040,500		
31	Guardianship			
32	Tribal Child Welfare	5,000,000		
33	Compact			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Items</b>	<b>Funds</b>
3	It is the intent of the legislature that \$1.9 million UGF, in addition to the \$3.1 million UGF			
4	requested by the Governor in FY23, be distributed to the Alaska Native Tribes and Tribal			
5	Organizations participating in the Alaska Tribal Child Welfare Compact so that they may			
6	provide the services outlined in the Compact.			
7	<b>Juvenile Justice</b>	<b>59,884,900</b>	<b>57,117,900</b>	<b>2,767,000</b>
8	McLaughlin Youth Center	18,627,500		
9	Mat-Su Youth Facility	2,748,900		
10	Kenai Peninsula Youth	2,234,400		
11	Facility			
12	Fairbanks Youth Facility	4,918,500		
13	Bethel Youth Facility	5,550,000		
14	Johnson Youth Center	4,850,900		
15	Probation Services	17,637,100		
16	Delinquency Prevention	1,381,700		
17	Youth Courts	447,300		
18	Juvenile Justice Health	1,488,600		
19	Care			
20	<b>Departmental Support Services</b>	<b>15,659,900</b>	<b>5,867,000</b>	<b>9,792,900</b>
21	Information Technology	4,884,800		
22	Services			
23	Public Affairs	420,400		
24	State Facilities Rent	1,330,000		
25	Facilities Management	726,700		
26	Commissioner's Office	2,103,100		
27	Administrative Services	6,194,900		
28	<b>Agency Unallocated</b>	<b>811,700</b>	<b>453,800</b>	<b>357,900</b>
29	Unallocated Rates	811,700		
30	Adjustment			
31		* * * * *	* * * * *	
32		* * * * *	<b>Department of Fish and Game</b>	* * * * *
33		* * * * *	* * * * *	

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Items</b>	<b>Funds</b>
	The amount appropriated for the Department of Fish and Game includes the unexpended and unobligated balance on June 30, 2022, of receipts collected under the Department of Fish and Game's federal indirect cost plan for expenditures incurred by the Department of Fish and Game.			
	<b>Commercial Fisheries</b>	<b>82,031,900</b>	<b>55,499,500</b>	<b>26,532,400</b>
	The amount appropriated for Commercial Fisheries includes the unexpended and unobligated balance on June 30, 2022, of the Department of Fish and Game receipts from commercial fisheries test fishing operations receipts under AS 16.05.050(a)(14), and from commercial crew member licenses.			
	Southeast Region Fisheries	17,964,500		
	Management			
	Central Region Fisheries	11,534,100		
	Management			
	AYK Region Fisheries	11,073,700		
	Management			
	Westward Region Fisheries	15,580,900		
	Management			
	Statewide Fisheries	22,714,200		
	Management			
	Commercial Fisheries Entry	3,164,500		
	Commission			
	The amount allocated for Commercial Fisheries Entry Commission includes the unexpended and unobligated balance on June 30, 2022, of the Department of Fish and Game, Commercial Fisheries Entry Commission program receipts from licenses, permits and other fees.			
	<b>Sport Fisheries</b>	<b>43,629,900</b>	<b>1,777,300</b>	<b>41,852,600</b>
	Sport Fisheries	43,629,900		
	<b>Anchorage and Fairbanks Hatcheries</b>	<b>6,019,000</b>	<b>4,848,200</b>	<b>1,170,800</b>
	Anchorage and Fairbanks	6,019,000		
	Hatcheries			
	<b>Southeast Hatcheries</b>	<b>846,100</b>	<b>846,100</b>	
	Southeast Hatcheries	846,100		

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
3	<b>Wildlife Conservation</b>	<b>63,617,400</b>	<b>1,739,400</b>	<b>61,878,000</b>
4	Wildlife Conservation	62,474,200		
5	It is the intent of the legislature that \$1,250,000 of Fish and Game funds be used to address			
6	the backlog of wildlife management surveys and assessments. The agency should prioritize			
7	basic wildlife management functions to provide maximum sustainable yield of wildlife			
8	resources and enhance food security for Alaskans.			
9	Hunter Education Public	1,143,200		
10	Shooting Ranges			
11	<b>Statewide Support Services</b>	<b>24,790,700</b>	<b>3,940,000</b>	<b>20,850,700</b>
12	Commissioner's Office	1,190,100		
13	Administrative Services	14,212,000		
14	Boards of Fisheries and	1,233,800		
15	Game			
16	Advisory Committees	560,000		
17	EVOS Trustee Council	2,400,700		
18	State Facilities	5,194,100		
19	Maintenance			
20	<b>Habitat</b>	<b>5,682,800</b>	<b>3,610,200</b>	<b>2,072,600</b>
21	Habitat	5,682,800		
22	<b>Subsistence Research &amp; Monitoring</b>	<b>6,069,100</b>	<b>2,620,400</b>	<b>3,448,700</b>
23	State Subsistence Research	6,069,100		
24	<b>Agency Unallocated</b>	<b>812,200</b>	<b>318,800</b>	<b>493,400</b>
25	Unallocated Rates	812,200		
26	Adjustment			
27	* * * * *	* * * * *		
28	* * * * * <b>Office of the Governor</b> * * * * *			
29	* * * * *	* * * * *		
30	<b>Commissions/Special Offices</b>	<b>2,522,000</b>	<b>2,294,500</b>	<b>227,500</b>
31	Human Rights Commission	2,522,000		
32	The amount allocated for Human Rights Commission includes the unexpended and			
33	unobligated balance on June 30, 2022, of the Office of the Governor, Human Rights			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Commission federal receipts.			
4	<b>Executive Operations</b>	<b>7,234,300</b>	<b>7,055,600</b>	<b>178,700</b>
5	Executive Office	6,859,300		
6	Governor's House	375,000		
7	<b>Lieutenant Governor</b>	<b>1,203,700</b>	<b>1,203,700</b>	
8	Lieutenant Governor	1,203,700		
9	<b>Office of the Governor State</b>	<b>1,086,800</b>	<b>1,086,800</b>	
10	<b>Facilities Rent</b>			
11	Governor's Office State	596,200		
12	Facilities Rent			
13	Governor's Office Leasing	490,600		
14	<b>Office of Management and Budget</b>	<b>5,924,500</b>	<b>2,732,900</b>	<b>3,191,600</b>
15	It is the intent of the legislature that the Office of Management and Budget submit a report to			
16	the Legislative Finance Division on January 17, 2023, that describes and justifies all transfers			
17	to and from the personal services line by executive branch agencies during the first half of the			
18	fiscal year ending June 30, 2023, and submit a report to the legislative finance division on			
19	October 1, 2023, that describes and justifies all transfers to and from the personal services line			
20	by executive branch agencies during the second half of the fiscal year ending June 30, 2023.			
21	Office of Management and	3,191,600		
22	Budget Administrative			
23	Services Directors			
24	Office of Management and	2,732,900		
25	Budget			
26	<b>Elections</b>	<b>4,992,700</b>	<b>4,666,300</b>	<b>326,400</b>
27	Elections	4,992,700		
28	<b>Agency Unallocated</b>	<b>54,500</b>	<b>47,600</b>	<b>6,900</b>
29	Unallocated Rates	54,500		
30	Adjustment			
31	<b>Central Services Cost Allocation Rates</b>	<b>5,000,000</b>	<b>5,000,000</b>	
32	The amount appropriated by this appropriation may be distributed across the executive branch			
33	to appropriations for costs not covered by receipts received from approved central services			

		Appropriation	General	Other
		Allocations	Funds	Funds
1				
2				
3	cost allocation rates.			
4	Central Services Cost	5,000,000		
5	Allocation Rates			
6		* * * * *	* * * * *	
7		* * * * * <b>Department of Health</b> * * * * *		
8		* * * * *	* * * * *	
9	At the discretion of the Commissioner of the Department of Health, up to \$15,000,000 may be			
10	transferred between all appropriations in the Department of Health, except that no transfer			
11	may be made from the Medicaid Services appropriation, and the Department shall submit a			
12	report of transfers between appropriations that occurred during the fiscal year ending June 30,			
13	2023, to the Legislative Finance Division by September 30, 2023.			
14	<b>Behavioral Health</b>	<b>30,718,700</b>	<b>6,320,300</b>	<b>24,398,400</b>
15	Behavioral Health Treatment	10,881,600		
16	and Recovery Grants			
17	Alcohol Safety Action	3,891,000		
18	Program (ASAP)			
19	Behavioral Health	11,766,200		
20	Administration			
21	Behavioral Health	3,055,000		
22	Prevention and Early			
23	Intervention Grants			
24	Alaska Mental Health Board	30,500		
25	and Advisory Board on			
26	Alcohol and Drug Abuse			
27	Suicide Prevention Council	30,000		
28	Residential Child Care	1,064,400		
29	<b>Health Care Services</b>	<b>20,762,700</b>	<b>9,613,900</b>	<b>11,148,800</b>
30	Catastrophic and Chronic	153,900		
31	Illness Assistance (AS			
32	47.08)			
33	Health Facilities Licensing	3,072,600		



		Appropriation	General	Other
		Allocations	Funds	Funds
3	and Certification			
4	Residential Licensing	4,570,700		
5	Medical Assistance	12,965,500		
6	Administration			
7	<b>Public Assistance</b>	<b>272,439,700</b>	<b>109,027,400</b>	<b>163,412,300</b>
8	Alaska Temporary Assistance	22,077,300		
9	Program			
10	Adult Public Assistance	63,786,900		
11	Child Care Benefits	39,913,700		
12	General Relief Assistance	605,400		
13	Tribal Assistance Programs	17,042,000		
14	Permanent Fund Dividend	17,724,700		
15	Hold Harmless			
16	Energy Assistance Program	9,665,000		
17	Public Assistance	8,389,100		
18	Administration			
19	Public Assistance Field	51,679,900		
20	Services			
21	Fraud Investigation	2,406,900		
22	Quality Control	2,568,400		
23	Work Services	11,782,300		
24	Women, Infants and Children	24,798,100		
25	<b>Senior Benefits Payment Program</b>	<b>20,786,100</b>	<b>20,786,100</b>	
26	Senior Benefits Program	20,786,100		
27	<b>Public Health</b>	<b>122,143,700</b>	<b>60,358,900</b>	<b>61,784,800</b>
28	Nursing	31,555,700		
29	It is the intent of the legislature that the department direct \$520,000 UGF to recruitment and			
30	retention efforts in Public Health Nursing including a \$5,000 sign-on bonus and \$5,000 in			
31	relocation support for each of the vacant Public Health Nursing positions.			
32	Women, Children and Family	13,142,300		
33	Health			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Public Health	2,153,700		
4	Administrative Services			
5	Emergency Programs	13,537,500		
6	Chronic Disease Prevention	23,463,500		
7	and Health Promotion			
8	Epidemiology	16,672,300		
9	Bureau of Vital Statistics	5,909,200		
10	Emergency Medical Services	3,133,700		
11	Grants			
12	State Medical Examiner	3,520,200		
13	Public Health Laboratories	9,055,600		
14	<b>Senior and Disabilities Services</b>	<b>56,924,400</b>	<b>31,746,800</b>	<b>25,177,600</b>
15	It is the intent of the legislature that the department develop a five-year plan, in collaboration			
16	with stakeholders, to eradicate the waitlist for the Intellectual and Developmental Disabilities			
17	waiver and to prevent waitlists for other Home and Community Based Waivers, and submit			
18	the plan to the Co-Chairs of the Finance Committees and the Legislative Finance Division by			
19	December 20, 2022.			
20	Senior and Disabilities	20,289,100		
21	Community Based Grants			
22	It is the intent of the legislature that the department distribute \$586,000 UGF, in addition to			
23	the FY22 level of grant funding for the Centers for Independent Living, to the Centers for			
24	Independent Living. It is furthermore the intent of the legislature that \$912,200, be distributed			
25	to SDS Community Based Grant recipients that provide services to Alaska seniors, in addition			
26	to their FY22 level of grant funding.			
27	Early Intervention/Infant	1,859,100		
28	Learning Programs			
29	Senior and Disabilities	23,492,800		
30	Services Administration			
31	General Relief/Temporary	9,654,700		
32	Assisted Living			
33	It is the intent of the legislature that the department increase the daily rate for General			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
1	Relief/Temporary Assisted Living from \$70 to \$104.30 to reflect Alaska's inflation rate			
2	(according to the Bureau of Labor Statistics' Consumer Price Index for Urban Alaska) since			
3	the rate was last set on July 1, 2002.			
4	Commission on Aging	218,400		
5	Governor's Council on	1,410,300		
6	Disabilities and Special			
7	Education			
8				
9	<b>Departmental Support Services</b>	<b>41,443,500</b>	<b>13,505,500</b>	<b>27,938,000</b>
10	Public Affairs	1,624,000		
11	Quality Assurance and Audit	1,207,600		
12	Commissioner's Office	8,401,500		
13	It is the intent of the legislature that Medicaid and AlaskaCare, along with Trustees and			
14	Retirees, convert claims data to a common layout and provide that data to the Department of			
15	Commerce, Community, and Economic Development.			
16	Administrative Support	9,372,000		
17	Services			
18	Information Technology	14,951,400		
19	Services			
20	HSS State Facilities Rent	3,091,000		
21	Rate Review	2,796,000		
22				
23	<b>Human Services Community Matching</b>	<b>1,387,000</b>	<b>1,387,000</b>	
24	<b>Grant</b>			
25	Human Services Community	1,387,000		
26	Matching Grant			
27	<b>Community Initiative Matching Grants</b>	<b>861,700</b>	<b>861,700</b>	
28	Community Initiative	861,700		
29	Matching Grants (non-			
30	statutory grants)			
31	<b>Medicaid Services</b>	<b>2,380,768,900</b>	<b>591,141,400</b>	<b>1,789,627,500</b>
32	It is the intent of the legislature that the department submit the Medicaid Unrestricted General			
33	Fund Obligation Report for FY22 and the first half of FY23 to the co-chairs of the Finance			

	Appropriation	General	Other
	Allocations	Funds	Funds
Committees and the Legislative Finance Division by January 31st, 2023 and subsequently update the report as requested by the legislature.			
It is the intent of the legislature that the department draw a minimum of 70 new individuals from the Intellectual and Developmental Disabilities waiver waitlist in FY23 to receive services. The department shall submit a waiver amendment, if necessary, to the Centers for Medicare and Medicaid to ensure costs for this increased draw will be matched with federal dollars.			
No money appropriated in this appropriation may be expended for an abortion that is not a mandatory service required under AS 47.07.030(a). The money appropriated for the Department of Health may be expended only for mandatory services required under Title XIX of the Social Security Act, unless a U.S. Supreme Court decision provides new precedent, and for optional services offered by the state under the state plan for medical assistance that has been approved by the United States Department of Health and Human Services.			
Medicaid Services	2,353,764,400		
It is the intent of the legislature that the employer entities receiving the increased reimbursement rate for providing services under the Home and Community Based Service Waivers, Personal Care Assistant State Plan, Community First Choice, and the Long Term Services and Supports, Targeted Case Management programs provide a 10% increase to employee wages.			
Adult Preventative Dental	27,004,500		
Medicaid Svcs			
<b>Agency Unallocated</b>	<b>1,744,400</b>	<b>618,500</b>	<b>1,125,900</b>
Unallocated Rates	1,744,400		
Adjustment			
	* * * * *	* * * * *	
	* * * * * <b>Department of Labor and Workforce Development</b> * * * * *		
	* * * * *	* * * * *	
<b>Commissioner and Administrative Services</b>	<b>32,663,300</b>	<b>16,982,900</b>	<b>15,680,400</b>
Commissioner's Office	1,244,400		
Workforce Investment Board	20,850,000		

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Alaska Labor Relations	488,000		
4	Agency			
5	Management Services	4,041,400		
6	The amount allocated for Management Services includes the unexpended and unobligated			
7	balance on June 30, 2022, of receipts from all prior fiscal years collected under the			
8	Department of Labor and Workforce Development's federal indirect cost plan for			
9	expenditures incurred by the Department of Labor and Workforce Development.			
10	Leasing	2,070,400		
11	Labor Market Information	3,969,100		
12	<b>Workers' Compensation</b>		<b>11,554,500</b>	<b>11,554,500</b>
13	Workers' Compensation	6,048,600		
14	Workers' Compensation	435,500		
15	Appeals Commission			
16	Workers' Compensation	784,700		
17	Benefits Guaranty Fund			
18	Second Injury Fund	2,862,600		
19	Fishermen's Fund	1,423,100		
20	<b>Labor Standards and Safety</b>		<b>11,014,600</b>	<b>6,889,300</b>
21	Wage and Hour	2,376,700		<b>4,125,300</b>
22	Administration			
23	Mechanical Inspection	3,158,000		
24	Occupational Safety and	5,293,300		
25	Health			
26	Alaska Safety Advisory	186,600		
27	Council			
28	The amount allocated for the Alaska Safety Advisory Council includes the unexpended and			
29	unobligated balance on June 30, 2022, of the Department of Labor and Workforce			
30	Development, Alaska Safety Advisory Council receipts under AS 18.60.840.			
31	<b>Employment and Training Services</b>		<b>66,634,100</b>	<b>5,818,600</b>
32	Employment and Training	5,419,200		<b>60,815,500</b>
33	Services Administration			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	The amount allocated for Employment and Training Services Administration includes the			
4	unexpended and unobligated balance on June 30, 2022, of receipts from all prior fiscal years			
5	collected under the Department of Labor and Workforce Development's federal indirect cost			
6	plan for expenditures incurred by the Department of Labor and Workforce Development.			
7	Workforce Services	17,381,400		
8	Workforce Development	10,315,000		
9	Unemployment Insurance	33,518,500		
10	<b>Vocational Rehabilitation</b>	<b>26,114,900</b>	<b>4,356,700</b>	<b>21,758,200</b>
11	Vocational Rehabilitation	1,442,500		
12	Administration			
13	The amount allocated for Vocational Rehabilitation Administration includes the unexpended			
14	and unobligated balance on June 30, 2022, of receipts from all prior fiscal years collected			
15	under the Department of Labor and Workforce Development's federal indirect cost plan for			
16	expenditures incurred by the Department of Labor and Workforce Development.			
17	Client Services	17,661,800		
18	Disability Determination	6,075,700		
19	Special Projects	934,900		
20	<b>Alaska Vocational Technical Center</b>	<b>15,659,400</b>	<b>10,631,300</b>	<b>5,028,100</b>
21	Alaska Vocational Technical	13,692,400		
22	Center			
23	The amount allocated for the Alaska Vocational Technical Center includes the unexpended			
24	and unobligated balance on June 30, 2022, of contributions received by the Alaska Vocational			
25	Technical Center receipts under AS 21.96.070, AS 43.20.014, AS 43.55.019, AS 43.56.018,			
26	AS 43.65.018, AS 43.75.018, and AS 43.77.045 and receipts collected under AS 37.05.146.			
27	AVTEC Facilities	1,967,000		
28	Maintenance			
29	<b>Agency Unallocated</b>	<b>353,100</b>	<b>109,700</b>	<b>243,400</b>
30	Unallocated Rates	353,100		
31	Adjustment			
32	* * * * *			
33	* * * * * <b>Department of Law</b> * * * * *			

		Appropriation	General	Other
		Allocations	Items	Funds
		*****	*****	Funds
1				
2				
3				
4	It is the intent of the legislature that no funds shall be expended for any activity related to			
5	Torres v. Texas Department of Public Safety.			
6	<b>Criminal Division</b>	<b>42,218,800</b>	<b>37,033,300</b>	<b>5,185,500</b>
7	First Judicial District	2,854,300		
8	Second Judicial District	3,072,700		
9	Third Judicial District:	8,956,200		
10	Anchorage			
11	Third Judicial District:	6,462,700		
12	Outside Anchorage			
13	Fourth Judicial District	7,313,500		
14	Criminal Justice Litigation	4,649,300		
15	Criminal Appeals/Special	8,910,100		
16	Litigation			
17	<b>Civil Division</b>	<b>51,017,100</b>	<b>23,640,800</b>	<b>27,376,300</b>
18	The amount appropriated by this appropriation includes the unexpended and unobligated			
19	balance on June 30, 2022, of inter-agency receipts collected in the Department of Law's			
20	federally approved cost allocation plan.			
21	Deputy Attorney General's	2,093,400		
22	Office			
23	Child Protection	7,702,300		
24	Commercial and Fair	4,903,100		
25	Business			
26	The amount allocated for Commercial and Fair Business includes the unexpended and			
27	unobligated balance on June 30, 2022, of designated program receipts of the Department of			
28	Law, Commercial and Fair Business section, that are required by the terms of a settlement or			
29	judgment to be spent by the State for consumer education or consumer protection.			
30	Environmental Law	1,976,100		
31	Human Services	3,280,000		
32	Labor and State Affairs	4,614,200		
33	Legislation/Regulations	1,717,800		

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Items</b>	<b>Funds</b>
1				
2				
3	Natural Resources	8,102,900		
4	Opinions, Appeals and	2,391,400		
5	Ethics			
6	Regulatory Affairs Public	2,913,100		
7	Advocacy			
8	Special Litigation	1,878,000		
9	Information and Project	2,190,300		
10	Support			
11	Torts & Workers'	4,439,000		
12	Compensation			
13	Transportation Section	2,815,500		
14	<b>Administration and Support</b>		<b>4,829,700</b>	<b>2,680,200</b>
15	Office of the Attorney	725,400		
16	General			
17	Administrative Services	3,258,000		
18	Department of Law State	846,300		
19	Facilities Rent			
20	<b>Agency Unallocated</b>		<b>412,700</b>	<b>270,300</b>
21	Unallocated Rates	412,700		
22	Adjustment			
23		* * * * *	* * * * *	
24		* * * * *	<b>Department of Military and Veterans' Affairs</b>	* * * * *
25		* * * * *	* * * * *	
26	<b>Military and Veterans' Affairs</b>		<b>48,887,400</b>	<b>15,852,100</b>
27	Office of the Commissioner	6,075,300		
28	Homeland Security and	9,009,600		
29	Emergency Management			
30	It is the intent of the legislature that any expenditure of funds taken after the end of the close			
31	of the second session of the Thirty-Second Alaska Legislature in response to the declarations			
32	of a disaster emergency related to the flooding on the Y-K Delta, the 2022 Lowell Point			
33	Landslide in the City of Seward, and the Galena Fire Hall roof collapse issued by the			



		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
3	governor on May 13, 2022, are approved and ratified.			
4	Army Guard Facilities	13,653,300		
5	Maintenance			
6	Air Guard Facilities	7,193,900		
7	Maintenance			
8	Alaska Military Youth	10,166,800		
9	Academy			
10	Veterans' Services	2,213,500		
11	State Active Duty	325,000		
12	Alaska Wing Civil Air	250,000		
13	Patrol			
14	<b>Alaska Aerospace Corporation</b>	<b>10,446,200</b>		<b>10,446,200</b>
15	The amount appropriated by this appropriation includes the unexpended and unobligated			
16	balance on June 30, 2022, of the federal and corporate receipts of the Department of Military			
17	and Veterans Affairs, Alaska Aerospace Corporation.			
18	Alaska Aerospace	3,869,700		
19	Corporation			
20	Alaska Aerospace	6,576,500		
21	Corporation Facilities			
22	Maintenance			
23	<b>Agency Unallocated</b>	<b>74,000</b>	<b>28,200</b>	<b>45,800</b>
24	Unallocated Rates	74,000		
25	Adjustment			
26	*****	*****		
27	***** <b>Department of Natural Resources</b> *****			
28	*****	*****		
29	<b>Administration &amp; Support Services</b>	<b>24,548,300</b>	<b>16,725,900</b>	<b>7,822,400</b>
30	Commissioner's Office	1,770,500		
31	Office of Project	6,411,900		
32	Management & Permitting			
33	Administrative Services	3,962,000		

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Items</b>	<b>Funds</b>
1				
2				
3	The amount allocated for Administrative Services includes the unexpended and unobligated			
4	balance on June 30, 2022, of receipts from all prior fiscal years collected under the			
5	Department of Natural Resource's federal indirect cost plan for expenditures incurred by the			
6	Department of Natural Resources.			
7	Information Resource	3,564,300		
8	Management			
9	Interdepartmental	1,331,800		
10	Chargebacks			
11	Facilities	2,717,900		
12	Recorder's Office/Uniform	3,826,100		
13	Commercial Code			
14	EVOS Trustee Council	165,900		
15	Projects			
16	Public Information Center	797,900		
17	<b>Oil &amp; Gas</b>		<b>21,401,100</b>	<b>9,386,700</b>
18	Oil & Gas	21,401,100		<b>12,014,400</b>
19	The amount allocated for Oil & Gas includes the unexpended and unobligated balance on			
20	June 30, 2022, not to exceed \$7,000,000, of the revenue from the Right-of-Way leases.			
21	<b>Fire Suppression, Land &amp; Water</b>		<b>95,246,100</b>	<b>72,409,400</b>
22	<b>Resources</b>			<b>22,836,700</b>
23	Mining, Land & Water	30,550,200		
24	The amount allocated for Mining, Land and Water includes the unexpended and unobligated			
25	balance on June 30, 2022, not to exceed \$5,000,000, of the receipts collected under AS			
26	38.05.035(a)(5).			
27	Forest Management &	9,080,600		
28	Development			
29	The amount allocated for Forest Management and Development includes the unexpended and			
30	unobligated balance on June 30, 2022, of the timber receipts account (AS 38.05.110).			
31	Geological & Geophysical	12,212,300		
32	Surveys			
33	The amount allocated for Geological & Geophysical Surveys includes the unexpended and			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
1	unobligated balance on June 30, 2022, of the receipts collected under 41.08.045.			
2	Fire Suppression	24,801,600		
3	Preparedness			
4	It is the intent of the legislature that the Department of Natural Resources, Division of			
5	Forestry provide budget estimates for wildland fire costs for the preceding fire season to the			
6	Office of Management & Budget and the Legislative Finance Division between December 20			
7	and the start of the regular legislative session. The purpose of these budget estimates is to			
8	assist the executive and legislative branch with advance notice of large supplemental budget			
9	requests prior to the beginning of each session.			
10	Fire Suppression Activity	18,601,400		
11	<b>Agriculture</b>	<b>6,791,400</b>	<b>4,679,200</b>	<b>2,112,200</b>
12	The amount appropriated by this appropriation includes the unexpended and unobligated			
13	balance on June 30, 2022, of registration and endorsement fees, fines, and penalties collected			
14	under AS 03.05.076.			
15	Agricultural Development	3,238,000		
16	North Latitude Plant	3,553,400		
17	Material Center			
18	<b>Parks &amp; Outdoor Recreation</b>	<b>18,022,700</b>	<b>11,318,400</b>	<b>6,704,300</b>
19	Parks Management & Access	15,339,400		
20	The amount allocated for Parks Management and Access includes the unexpended and			
21	unobligated balance on June 30, 2022, of the receipts collected under AS 41.21.026.			
22	Office of History and	2,683,300		
23	Archaeology			
24	The amount allocated for the Office of History and Archaeology includes up to \$15,700			
25	general fund program receipt authorization from the unexpended and unobligated balance on			
26	June 30, 2022, of the receipts collected under AS 41.35.380.			
27	<b>Agency Unallocated</b>	<b>739,400</b>	<b>493,300</b>	<b>246,100</b>
28	Unallocated Rates	739,400		
29	Adjustment			
30	* * * * *			
31	* * * * *			
32	* * * * * <b>Department of Public Safety</b> * * * * *			
33				

	Appropriation	General	Other
	Allocations	Funds	Funds
	*****	*****	

It is the intent of the legislature that the Department of Public Safety prioritize the deployment of law enforcement resources to non-urbanized areas that lack organized governments.

It is the intent of the legislature that the Department of Public Safety work with the Department of Homeland Security, Department of Military and Veterans Affairs, and other agencies on issues concerning potential disasters, conflicts, and community preparedness. It is also the intent of the legislature that the Department of Public Safety, in cooperation with other agencies, conduct a situational assessment to review and make recommendations including, but not limited to, emergency supplies, including water, heat, medical needs, food, shelter, communications, and actively participate within each region for community emergency preparedness and readiness through facilitating citizen corps councils.

<b>Fire and Life Safety</b>	<b>6,746,800</b>	<b>5,792,000</b>	<b>954,800</b>
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The amount appropriated by this appropriation includes the unexpended and unobligated balance on June 30, 2022, of the receipts collected under AS 18.70.080(b), AS 18.70.350(4), and AS 18.70.360.

Fire and Life Safety	6,367,300
Alaska Fire Standards	379,500
Council	

<b>Alaska State Troopers</b>	<b>165,240,900</b>	<b>151,199,200</b>	<b>14,041,700</b>
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It is the intent of the legislature that the Department of Public Safety increase efforts to fill vacant positions within the Alaska State Troopers appropriation and reduce overtime in order to better manage within the authorized budget. The Department should provide two reports to the Co-Chairs of Finance and the Legislative Finance Division, the first no later than December 20, 2022, and the second no later than July 1, 2023, that detail monthly hiring and attrition, as well as premium and overtime costs by category, a comparison of actual outlays to budgeted amounts, a graph showing actual overtime outlays versus budgeted for the past 5 fiscal years, and a description of any contributing factors to the overtime amounts and actions taken to address those factors from the start of the fiscal year to the month preceding the due date of the report.

It is the intent of the legislature that no funds shall be moved outside of the personal services line of any allocation within the Alaska State Troopers appropriation.

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Special Projects	7,431,500		
4	Alaska Bureau of Highway	3,061,200		
5	Patrol			
6	Alaska Bureau of Judicial	4,857,600		
7	Services			
8	Prisoner Transportation	1,704,300		
9	Search and Rescue	317,000		
10	Rural Trooper Housing	2,521,000		
11	Dispatch Services	5,756,200		
12	Statewide Drug and Alcohol	9,752,900		
13	Enforcement Unit			
14	Alaska State Trooper	77,810,300		
15	Detachments			
16	Training Academy Recruit	1,589,000		
17	Sal.			
18	Alaska Bureau of	12,781,700		
19	Investigation			
20	Aircraft Section	8,555,300		
21	Alaska Wildlife Troopers	25,800,400		
22	Alaska Wildlife Troopers	3,302,500		
23	Marine Enforcement			
24	<b>Village Public Safety Officer Program</b>	<b>17,122,000</b>	<b>17,122,000</b>	
25	It is the intent of the legislature that the Department of Public Safety work in conjunction with			
26	each Village Public Safety Officer (VPSO) program grantee's leadership to improve program			
27	recruitment and retention, to provide greater spending flexibility, and to identify regional			
28	training opportunities. The Department should refine the standards of VPSOs to expand upon			
29	eligibility and better define essential functions and other responsibilities that distinguish			
30	varying support of village public safety needs. The Department shall work with grantees to			
31	utilize grant funds and/or contributions from tribal governments, local governments, and			
32	regional Native Corporations to support hiring and retention incentives.			
33	Village Public Safety	17,122,000		

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
1	Officer Program			
4	<b>Alaska Police Standards Council</b>	<b>1,330,400</b>	<b>1,330,400</b>	
5	The amount appropriated by this appropriation includes the unexpended and unobligated			
6	balance on June 30, 2022, of the receipts collected under AS 12.25.195(c), AS 12.55.039, AS			
7	28.05.151, and AS 29.25.074 and receipts collected under AS 18.65.220(7).			
8	Alaska Police Standards	1,330,400		
9	Council			
10	<b>Council on Domestic Violence and</b>	<b>29,015,600</b>	<b>14,888,700</b>	<b>14,126,900</b>
11	<b>Sexual Assault</b>			
12	Council on Domestic	29,015,600		
13	Violence and Sexual Assault			
14	<b>Statewide Support</b>	<b>50,004,100</b>	<b>31,462,100</b>	<b>18,542,000</b>
15	Commissioner's Office	2,727,300		
16	Training Academy	3,781,300		
17	The amount allocated for the Training Academy includes the unexpended and unobligated			
18	balance on June 30, 2022, of the receipts collected under AS 44.41.020(a).			
19	Administrative Services	4,391,500		
20	Alaska Public Safety	9,769,400		
21	Communication Services			
22	(APSCS)			
23	Information Systems	3,869,200		
24	Criminal Justice	14,578,900		
25	Information Systems Program			
26	The amount allocated for the Criminal Justice Information Systems Program includes the			
27	unexpended and unobligated balance on June 30, 2022, of the receipts collected by the			
28	Department of Public Safety from the Alaska automated fingerprint system under AS			
29	44.41.025(b).			
30	Laboratory Services	9,302,900		
31	Facility Maintenance	1,469,200		
32	DPS State Facilities Rent	114,400		
33	<b>Violent Crimes Compensation Board</b>	<b>1,864,000</b>		<b>1,864,000</b>

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Items</b>	<b>Funds</b>
1				
2				
3	Violent Crimes Compensation	1,864,000		
4	Board			
5	<b>Agency Unallocated</b>		<b>976,200</b>	<b>860,600</b>
6	Unallocated Rates	976,200		
7	Adjustment			
8		*****	*****	
9		*****	<b>Department of Revenue</b>	*****
10		*****	*****	
11	<b>Taxation and Treasury</b>		<b>84,567,200</b>	<b>20,756,800</b>
12	Tax Division	17,374,000		
13	Treasury Division	10,639,300		
14	Of the amount appropriated in this allocation, up to \$500,000 of budget authority may be			
15	transferred between the following fund codes: Group Health and Life Benefits Fund 1017,			
16	Public Employees Retirement Trust Fund 1029, Teachers Retirement Trust Fund 1034,			
17	Judicial Retirement System 1042, National Guard Retirement System 1045.			
18	It is the intent of the legislature that the Department of Revenue, Treasury Division calculate			
19	(1) the fees paid by Alaska Retirement Management Board's invested assets for cash			
20	management, and (2) the cost of providing cash management to Alaska Retirement			
21	Management Board's invested assets. The calculations shall be made for fiscal year 2009			
22	through fiscal year 2023. The Department shall provide the calculations to the Finance Co-			
23	Chairs and the Legislative Finance Division no later than December 20, 2022.			
24	Unclaimed Property	709,000		
25	Alaska Retirement	10,282,000		
26	Management Board			
27	Of the amount appropriated in this allocation, up to \$500,000 of budget authority may be			
28	transferred between the following fund codes: Group Health and Life Benefits Fund 1017,			
29	Public Employees Retirement Trust Fund 1029, Teachers Retirement Trust Fund 1034,			
30	Judicial Retirement System 1042, National Guard Retirement System 1045.			
31	Alaska Retirement	35,000,000		
32	Management Board Custody			
33	and Management Fees			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
3	Of the amount appropriated in this allocation, up to \$500,000 of budget authority may be			
4	transferred between the following fund codes: Group Health and Life Benefits Fund 1017,			
5	Public Employees Retirement Trust Fund 1029, Teachers Retirement Trust Fund 1034,			
6	Judicial Retirement System 1042, National Guard Retirement System 1045.			
7	Permanent Fund Dividend	10,562,900		
8	Division			
9	The amount allocated for the Permanent Fund Dividend includes the unexpended and			
10	unobligated balance on June 30, 2022, of the receipts collected by the Department of Revenue			
11	for application fees for reimbursement of the cost of the Permanent Fund Dividend Division			
12	charitable contributions program as provided under AS 43.23.130(f) and for coordination fees			
13	provided under AS 43.23.130(m).			
14	<b>Child Support Services</b>	<b>25,202,000</b>	<b>7,729,100</b>	<b>17,472,900</b>
15	Child Support Services	25,202,000		
16	Division			
17	The amount allocated for the Child Support Services Division includes the unexpended and			
18	unobligated balance on June 30, 2022, of the receipts collected by the Department of Revenue			
19	associated with collections for recipients of Temporary Assistance to Needy Families and the			
20	Alaska Interest program.			
21	<b>Administration and Support</b>	<b>4,713,600</b>	<b>1,198,600</b>	<b>3,515,000</b>
22	Commissioner's Office	1,105,000		
23	Administrative Services	2,466,900		
24	The amount allocated for the Administrative Services Division includes the unexpended and			
25	unobligated balance on June 30, 2022, not to exceed \$300,000, of receipts collected by the			
26	department's federally approved indirect cost allocation plan.			
27	Criminal Investigations	1,141,700		
28	Unit			
29	<b>Alaska Mental Health Trust Authority</b>	<b>452,800</b>	<b>13,400</b>	<b>439,400</b>
30	Mental Health Trust	30,000		
31	Operations			
32	Long Term Care Ombudsman	422,800		
33	Office			



		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	<b>Alaska Municipal Bond Bank Authority</b>	<b>1,016,600</b>		<b>1,016,600</b>
4	AMBBA Operations	1,016,600		
5	<b>Alaska Housing Finance Corporation</b>	<b>103,146,600</b>		<b>103,146,600</b>
6	AHFC Operations	102,667,600		
7	Alaska Corporation for	479,000		
8	Affordable Housing			
9	<b>Alaska Permanent Fund Corporation</b>	<b>217,802,000</b>		<b>217,802,000</b>
10	APFC Operations	21,934,000		
11	APFC Investment Management	195,868,000		
12	Fees			
13	<b>Agency Unallocated</b>	<b>340,000</b>	<b>66,600</b>	<b>273,400</b>
14	Unallocated Rates	340,000		
15	Adjustment			
16	* * * * *	* * * * *		
17	<b>* * * * * Department of Transportation and Public Facilities * * * * *</b>			
18	* * * * *	* * * * *		
19	<b>Division of Facilities Services</b>	<b>99,813,900</b>	<b>1,253,400</b>	<b>98,560,500</b>
20	Facilities Services	35,244,100		
21	The amount allocated for the Division of Facilities Services includes the unexpended and			
22	unobligated balance on June 30, 2022, of inter-agency receipts collected by the Division for			
23	the maintenance and operations of facilities and lease administration.			
24	Leases	44,844,200		
25	Lease Administration	994,900		
26	Facilities	16,104,200		
27	Facilities Administration	1,802,100		
28	Non-Public Building Fund	824,400		
29	Facilities			
30	<b>Administration and Support</b>	<b>52,702,200</b>	<b>13,071,200</b>	<b>39,631,000</b>
31	Commissioner's Office	1,950,400		
32	Contracting and Appeals	388,000		
33	Equal Employment and Civil	1,329,500		

	Appropriation	General	Other
	Allocations	Funds	Funds
1			
2			
3	Rights		
4	The amount allocated for Equal Employment and Civil Rights includes the unexpended and		
5	unobligated balance on June 30, 2022, of the statutory designated program receipts collected		
6	for the Alaska Construction Career Day events.		
7	Internal Review	776,000	
8	Statewide Administrative	9,448,600	
9	Services		
10	The amount allocated for Statewide Administrative Services includes the unexpended and		
11	unobligated balance on June 30, 2022, of receipts from all prior fiscal years collected under		
12	the Department of Transportation and Public Facilities federal indirect cost plan for		
13	expenditures incurred by the Department of Transportation and Public Facilities.		
14	Information Systems and	5,794,400	
15	Services		
16	Leased Facilities	2,937,500	
17	Statewide Procurement	3,024,200	
18	Central Region Support	1,380,600	
19	Services		
20	Northern Region Support	842,300	
21	Services		
22	Southcoast Region Support	3,446,500	
23	Services		
24	Statewide Aviation	5,055,600	
25	The amount allocated for Statewide Aviation includes the unexpended and unobligated		
26	balance on June 30, 2022, of the rental receipts and user fees collected from tenants of land		
27	and buildings at Department of Transportation and Public Facilities rural airports under AS		
28	02.15.090(a).		
29	Program Development and	8,876,000	
30	Statewide Planning		
31	Measurement Standards &	7,452,600	
32	Commercial Vehicle		
33	Compliance		

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Items</b>	<b>Funds</b>
1				
2				
3	The amount allocated for Measurement Standards and Commercial Vehicle Compliance			
4	includes the unexpended and unobligated balance on June 30, 2022, of the Unified Carrier			
5	Registration Program receipts collected by the Department of Transportation and Public			
6	Facilities.			
7	The amount allocated for Measurement Standards and Commercial Vehicle Compliance			
8	includes the unexpended and unobligated balance on June 30, 2022, of program receipts			
9	collected by the Department of Transportation and Public Facilities.			
10	<b>Design, Engineering and Construction</b>	<b>120,905,600</b>	<b>1,812,600</b>	<b>119,093,000</b>
11	Statewide Design and	12,993,400		
12	Engineering Services			
13	The amount allocated for Statewide Design and Engineering Services includes the			
14	unexpended and unobligated balance on June 30, 2022, of Environmental Protection Agency			
15	Consent Decree fine receipts collected by the Department of Transportation and Public			
16	Facilities.			
17	Central Design and	25,584,800		
18	Engineering Services			
19	The amount allocated for Central Design and Engineering Services includes the unexpended			
20	and unobligated balance on June 30, 2022, of the general fund program receipts collected by			
21	the Department of Transportation and Public Facilities for the sale or lease of excess right-of-			
22	way.			
23	Northern Region Design,	38,883,600		
24	Engineering, and			
25	Construction			
26	The amount allocated for Northern Region Design, Engineering, and Construction includes			
27	the unexpended and unobligated balance on June 30, 2022, of the general fund program			
28	receipts collected by the Department of Transportation and Public Facilities for the sale or			
29	lease of excess right-of-way.			
30	Southcoast Design and	11,638,400		
31	Engineering Services			
32	The amount allocated for Southcoast Design and Engineering Services includes the			
33	unexpended and unobligated balance on June 30, 2022, of the general fund program receipts			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Items</b>	<b>Funds</b>
1				
2				
3	collected by the Department of Transportation and Public Facilities for the sale or lease of			
4	excess right-of-way.			
5	Central Region Construction	23,742,800		
6	and CIP Support			
7	Southcoast Region	8,062,600		
8	Construction			
9	<b>State Equipment Fleet</b>	<b>36,233,400</b>	<b>29,200</b>	<b>36,204,200</b>
10	State Equipment Fleet	36,233,400		
11	<b>Highways, Aviation and Facilities</b>	<b>168,054,400</b>	<b>112,537,600</b>	<b>55,516,800</b>
12	The amounts allocated for highways and aviation shall lapse into the general fund on August			
13	31, 2023.			
14	The amount appropriated by this appropriation includes the unexpended and unobligated			
15	balance on June 30, 2022, of general fund program receipts collected by the Department of			
16	Transportation and Public Facilities for collections related to the repair of damaged state			
17	highway infrastructure.			
18	It is the intent of the legislature that DOT&PF create and implement a method to solicit input			
19	from and consult with local municipalities, community organizations, Metropolitan Planning			
20	Organizations, Regional Transportation Planning Organizations and service areas on the			
21	creation and revision of the prioritized list of state-maintained roads and highways for snow			
22	plowing, and to coordinate these efforts, where appropriate, with local governments and			
23	service areas. This plan shall be developed and submitted to the Finance Committee Co-			
24	Chairs and Legislative Finance Division by December 20th, 2022.			
25	Abandoned Vehicle Removal	100,000		
26	Central Region Facilities	6,145,300		
27	Northern Region Facilities	10,494,500		
28	Southcoast Region	3,045,900		
29	Facilities			
30	Traffic Signal Management	1,920,400		
31	Central Region Highways and	44,422,300		
32	Aviation			
33	Northern Region Highways	70,312,800		

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
3	and Aviation			
4	Southcoast Region Highways	25,542,700		
5	and Aviation			
6	Whittier Access and Tunnel	6,070,500		
7	The amount allocated for Whittier Access and Tunnel includes the unexpended and			
8	unobligated balance on June 30, 2022, of the Whittier Tunnel toll receipts collected by the			
9	Department of Transportation and Public Facilities under AS 19.05.040(11).			
10	<b>International Airports</b>	<b>96,284,800</b>		<b>96,284,800</b>
11	International Airport	2,252,300		
12	Systems Office			
13	Anchorage Airport	7,438,100		
14	Administration			
15	Anchorage Airport	28,111,200		
16	Facilities			
17	Anchorage Airport Field and	18,235,200		
18	Equipment Maintenance			
19	Anchorage Airport	7,230,900		
20	Operations			
21	Anchorage Airport Safety	13,682,300		
22	Fairbanks Airport	2,555,100		
23	Administration			
24	Fairbanks Airport	4,922,700		
25	Facilities			
26	Fairbanks Airport Field and	4,873,400		
27	Equipment Maintenance			
28	Fairbanks Airport	1,235,700		
29	Operations			
30	Fairbanks Airport Safety	5,747,900		
31	<b>Agency Unallocated</b>	<b>2,210,700</b>	<b>242,100</b>	<b>1,968,600</b>
32	Unallocated Rates	2,210,700		
33	Adjustment			



	Appropriation	General	Other
	Allocations	Funds	Funds
	* * * * *		
	* * * * * <b>Judiciary</b> * * * * *		
	* * * * *		
<b>Alaska Court System</b>	<b>117,789,200</b>	<b>115,407,900</b>	<b>2,381,300</b>
Appellate Courts	8,357,500		
Trial Courts	97,857,700		
Administration and Support	11,574,000		
<b>Therapeutic Courts</b>	<b>3,491,100</b>	<b>2,870,100</b>	<b>621,000</b>
Therapeutic Courts	3,491,100		
<b>Commission on Judicial Conduct</b>	<b>475,300</b>	<b>475,300</b>	
Commission on Judicial	475,300		
Conduct			
<b>Judicial Council</b>	<b>1,417,100</b>	<b>1,417,100</b>	
Judicial Council	1,417,100		
<b>Judiciary Unallocated</b>	<b>40,700</b>	<b>40,700</b>	
Unallocated Rates	40,700		
Adjustment			
	* * * * *		
	* * * * * <b>Legislature</b> * * * * *		
	* * * * *		
<b>Budget and Audit Committee</b>	<b>16,183,900</b>	<b>16,183,900</b>	
Legislative Audit	6,601,800		
Legislative Finance	7,648,000		
Committee Expenses	1,934,100		
<b>Legislative Council</b>	<b>24,960,400</b>	<b>24,585,800</b>	<b>374,600</b>
Administrative Services	9,779,300		
Council and Subcommittees	695,300		
Legal and Research Services	4,829,700		
Select Committee on Ethics	264,400		
Office of Victims Rights	1,053,900		
Ombudsman	1,484,600		

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Legislature State	1,539,700		
4	Facilities Rent			
5	Integrated Technology	4,313,500		
6	Services (IT)			
7	Security Services	1,000,000		
8	<b>Legislative Operating Budget</b>		<b>28,614,600</b>	<b>20,000</b>
9	Legislators' Salaries and	6,402,000		
10	Allowances			
11	Legislative Operating	10,323,500		
12	Budget			
13	Session Expenses	11,909,100		
14	<b>Legislature Unallocated</b>		<b>72,600</b>	<b>200</b>
15	Unallocated Rates	72,800		
16	Adjustment			
17	(SECTION 2 OF THIS ACT BEGINS ON THE NEXT PAGE)			



\* **Sec. 2.** The following appropriation items are for operating expenditures from the general fund or other funds as set out in the fiscal year 2023 budget summary by funding source to the state agencies named and for the purposes set out in the new legislation for the fiscal year beginning July 1, 2022 and ending June 30, 2023, unless otherwise indicated. The appropriations in this section fund legislation assumed to have passed during the second session of the thirty-second legislature. If a measure listed in this section fails to pass and its substance is not incorporated in some other measure, or is vetoed by the governor, the appropriation for that measure shall be reduced accordingly.

Appropriation

**HB 19 LIMITED TEACHER CERTIFICATES; LANGUAGES**

Department of Education and Early Development

Education Support and Admin Services

Teacher Certification

1004 Gen Fund 6,000

**HB 99 PHYSICAL/OCCUPATIONAL THERAPY BD/PRACTICE**

Department of Commerce, Community and Economic Development

Corporations, Business and Professional Licensing

Corporations, Business and Professional Licensing

1156 Rcpt Svcs 2,300

**HB 102 STATE INSUR. CATASTROPHE RESERVE ACCT.**

Department of Administration

Risk Management

Risk Management

1007 I/A Rcpts -3,033,000

**HB 111 DENTAL HYGIENIST ADVANCED PRAC PERMIT**

Department of Commerce, Community and Economic Development

Corporations, Business and Professional Licensing

Corporations, Business and Professional Licensing

1156 Rcpt Svcs 1,700

Department of Health

Medicaid Services

1	Medicaid Services	
2	1002 Fed Rcpts	206,500
3	1003 GF/Match	68,800
4	<b>HB 114 EDUCATION &amp; SUPPLEMENTAL LOAN PROGRAMS</b>	
5	Department of Education and Early Development	
6	Education Support and Admin Services	
7	Student and School Achievement	
8	1004 Gen Fund	801,800
9	Early Learning Coordination	
10	1004 Gen Fund	385,600
11	Alaska Commission on Postsecondary Education	
12	Program Administration & Operations	
13	1004 Gen Fund	1,019,500
14	Fund Capitalization	
15	No Further Appropriation Required	
16	Public Education Fund	
17	1004 Gen Fund	11,770,000
18	<b>HB 127 MUNI BOND BANK: UA, LOAN AND BOND LIMITS</b>	
19	Department of Revenue	
20	Alaska Municipal Bond Bank Authority	
21	AMBBA Operations	
22	1104 AMBB Rcpts	360,000
23	<b>HB 155 COURT SYSTEM PROVIDE VISITORS &amp; EXPERTS</b>	
24	Department of Administration	
25	Legal and Advocacy Services	
26	Office of Public Advocacy	
27	1004 Gen Fund	-854,400
28	Judiciary	
29	Alaska Court System	
30	Trial Courts	
31	1004 Gen Fund	960,600

1	<b>HB 157 APOC; REPORT REFERENDA/RECALL CONTRIBUTOR</b>	
2	Department of Administration	
3	Alaska Public Offices Commission	
4	Alaska Public Offices Commission	
5	1004 Gen Fund	107,200
6	<b>HB 172 MENTAL HEALTH FACILITIES &amp; MEDS</b>	
7	Department of Family and Community Services	
8	Inpatient Mental Health	
9	Designated Evaluation and Treatment	
10	1007 I/A Rcpts	150,000
11	Department of Health	
12	Medicaid Services	
13	Medicaid Services	
14	1002 Fed Rcpts	150,000
15	<b>HB 226 PAY INCREASES FOR STATE ATTORNEYS</b>	
16	Executive Branch-wide Appropriations	
17	Executive Branch-wide Appropriations	
18	Branch-wide Unallocated	
19	1002 Fed Rcpts	463,600
20	1004 Gen Fund	30,074,000
21	1005 GF/Prgm	1,049,900
22	1007 I/A Rcpts	4,176,100
23	<b>HB 265 HEALTH CARE SERVICES BY TELEHEALTH</b>	
24	Department of Commerce, Community and Economic Development	
25	Corporations, Business and Professional Licensing	
26	Corporations, Business and Professional Licensing	
27	1156 Rcpt Svcs	14,700
28	Department of Health	
29	Behavioral Health	
30	Behavioral Health Administration	
31	1002 Fed Rcpts	60,000

1	1003 GF/Match	60,000
2	Health Care Services	
3	Medical Assistance Administration	
4	1002 Fed Rcpts	60,000
5	1003 GF/Match	60,000
6	<b>HB 308 DEMENTIA AWARENESS &amp; HEALTHCARE CAPACITY</b>	
7	Department of Health	
8	Public Health	
9	Chronic Disease Prevention and Health Promotion	
10	1003 GF/Match	284,500
11	<b>HB 363 BROADBAND: OFFICE, GRANTS, PARITY</b>	
12	Department of Commerce, Community and Economic Development	
13	Executive Administration	
14	Alaska Broadband Office	
15	1061 CIP Rcpts	399,700
16	<b>HB 413 FACILITIES CONSTITUTING A SCHOOL</b>	
17	Fund Capitalization	
18	No Further Appropriation Required	
19	Public Education Fund	
20	1004 Gen Fund	1,082,700
21	<b>SB 9 ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG</b>	
22	Department of Commerce, Community and Economic Development	
23	Alcohol and Marijuana Control Office	
24	Alcohol and Marijuana Control Office	
25	1005 GF/Prgm	244,900
26	Judiciary	
27	Alaska Court System	
28	Trial Courts	
29	1004 Gen Fund	40,300
30	<b>SB 20 OUT OF STATE TEACHER RECIPROCITY</b>	
31	Department of Education and Early Development	

1	Education Support and Admin Services	
2	Teacher Certification	
3	1004 Gen Fund	6,000
4	<b>SB 25 STATE GOV'T FINANCES: WEBSITE</b>	
5	Department of Administration	
6	Centralized Administrative Services	
7	Finance	
8	1004 Gen Fund	65,000
9	<b>SB 71 COUNCIL ON ARTS: PLATES &amp; MANAGE ART</b>	
10	Department of Education and Early Development	
11	Alaska State Council on the Arts	
12	Alaska State Council on the Arts	
13	1004 Gen Fund	6,000
14	<b>SB 72 SEC. SCHOOL CIVICS EDUCATION</b>	
15	Department of Education and Early Development	
16	Education Support and Admin Services	
17	Student and School Achievement	
18	1004 Gen Fund	6,000
19	<b>SB 81 VILLAGE PUBLIC SAFETY OFFICERS, GRANTS</b>	
20	Department of Public Safety	
21	Village Public Safety Officer Program	
22	Village Public Safety Officer Program	
23	1004 Gen Fund	122,200
24	<b>SB 98 ADULT HOME CARE; ADULT ADOPTION</b>	
25	Department of Health	
26	Health Care Services	
27	Residential Licensing	
28	1002 Fed Rcpts	59,500
29	1003 GF/Match	59,500
30	<b>SB 132 CONTROLLED SUB. DATA: EXEMPT VETERINARIAN</b>	
31	Department of Commerce, Community and Economic Development	

1	Corporations, Business and Professional Licensing	
2	Corporations, Business and Professional Licensing	
3	1156 Rcpt Svcs	1,700
4	<b>SB 173 DENTIST SPEC. LICENSE/RADIOLOGIC EQUIP</b>	
5	Department of Commerce, Community and Economic Development	
6	Corporations, Business and Professional Licensing	
7	Corporations, Business and Professional Licensing	
8	1156 Rcpt Svcs	117,000
9	Department of Health	
10	Health Care Services	
11	Medical Assistance Administration	
12	1002 Fed Rcpts	47,500
13	1003 GF/Match	47,500
14	Public Health	
15	Public Health Laboratories	
16	1003 GF/Match	193,200
17	<b>SB 203 PURPLE HEART TRAIL</b>	
18	Department of Transportation and Public Facilities	
19	Administration and Support	
20	Commissioner's Office	
21	1004 Gen Fund	255,600
22	<b>SB 243 PWR COST EQ: RAISE, ENDOW FUND INVESTMENT</b>	
23	Department of Commerce, Community and Economic Development	
24	Alaska Energy Authority	
25	Alaska Energy Authority Power Cost Equalization	
26	1169 PCE Endow	15,694,800
27	*** Total New Legislation Funding ***	66,854,500
28	(SECTION 3 OF THIS ACT BEGINS ON THE NEXT PAGE)	

\* **Sec. 3.** The following sets out the funding by agency for the appropriations made in sec. 1 and sec. 2 of this Act.

		New		
Funding Source		Operating	Legislation	Total
<b>Department of Administration</b>				
1002	Federal Receipts	785,800	0	785,800
1003	General Fund Match	250,000	0	250,000
1004	Unrestricted General Fund	51,376,500	-682,200	50,694,300
	Receipts			
1005	General Fund/Program Receipts	29,385,600	0	29,385,600
1007	Interagency Receipts	86,072,700	-3,033,000	83,039,700
1017	Group Health and Life Benefits	42,427,900	0	42,427,900
	Fund			
1023	FICA Administration Fund Account	211,200	0	211,200
1029	Public Employees Retirement	9,497,600	0	9,497,600
	Trust Fund			
1033	Surplus Federal Property	543,400	0	543,400
	Revolving Fund			
1034	Teachers Retirement Trust Fund	3,662,100	0	3,662,100
1042	Judicial Retirement System	121,200	0	121,200
1045	National Guard & Naval Militia	281,700	0	281,700
	Retirement System			
1061	Capital Improvement Project	493,900	0	493,900
	Receipts			
1081	Information Services Fund	63,924,200	0	63,924,200
1271	ARPA Revenue Replacement	20,000,000	0	20,000,000
***	Total Agency Funding ***	309,033,800	-3,715,200	305,318,600
<b>Department of Commerce, Community and Economic Development</b>				
1002	Federal Receipts	22,789,200	0	22,789,200
1003	General Fund Match	1,209,300	0	1,209,300
1004	Unrestricted General Fund	18,067,400	0	18,067,400

			<b>New</b>	
		<b>Operating</b>	<b>Legislation</b>	<b>Total</b>
1				
2				
3	Receipts			
4	1005 General Fund/Program Receipts	9,958,700	244,900	10,203,600
5	1007 Interagency Receipts	16,806,800	0	16,806,800
6	1036 Commercial Fishing Loan Fund	4,643,100	0	4,643,100
7	1040 Real Estate Recovery Fund	301,600	0	301,600
8	1061 Capital Improvement Project	4,340,200	399,700	4,739,900
9	Receipts			
10	1062 Power Project Fund	996,400	0	996,400
11	1070 Fisheries Enhancement Revolving	656,300	0	656,300
12	Loan Fund			
13	1074 Bulk Fuel Revolving Loan Fund	59,400	0	59,400
14	1102 Alaska Industrial Development &	8,806,000	0	8,806,000
15	Export Authority Receipts			
16	1107 Alaska Energy Authority	781,300	0	781,300
17	Corporate Receipts			
18	1108 Statutory Designated Program	16,337,900	0	16,337,900
19	Receipts			
20	1141 Regulatory Commission of Alaska	9,709,900	0	9,709,900
21	Receipts			
22	1156 Receipt Supported Services	22,068,700	137,400	22,206,100
23	1162 Alaska Oil & Gas Conservation	7,914,100	0	7,914,100
24	Commission Receipts			
25	1164 Rural Development Initiative	62,400	0	62,400
26	Fund			
27	1169 Power Cost Equalization	381,800	15,694,800	16,076,600
28	Endowment Fund Earnings			
29	1170 Small Business Economic	59,100	0	59,100
30	Development Revolving Loan Fund			
31	1202 Anatomical Gift Awareness Fund	80,000	0	80,000
32	1210 Renewable Energy Grant Fund	1,401,200	0	1,401,200
33	1216 Boat Registration Fees	197,000	0	197,000



1			New		
2			Operating	Legislation	Total
3	1221	Civil Legal Services Fund	300	0	300
4	1223	Commercial Charter Fisheries RLF	20,200	0	20,200
5	1224	Mariculture RLF	20,500	0	20,500
6	1227	Alaska Microloan RLF	10,100	0	10,100
7	1235	Alaska Liquefied Natural Gas	3,086,100	0	3,086,100
8		Project Fund			
9	***	Total Agency Funding ***	150,765,000	16,476,800	167,241,800
10	Department of Corrections				
11	1002	Federal Receipts	17,033,200	0	17,033,200
12	1004	Unrestricted General Fund	272,101,400	0	272,101,400
13		Receipts			
14	1005	General Fund/Program Receipts	5,721,100	0	5,721,100
15	1007	Interagency Receipts	1,463,700	0	1,463,700
16	1171	Restorative Justice Account	7,205,400	0	7,205,400
17	1271	ARPA Revenue Replacement	86,600,000	0	86,600,000
18	***	Total Agency Funding ***	390,124,800	0	390,124,800
19	Department of Education and Early Development				
20	1002	Federal Receipts	226,259,600	0	226,259,600
21	1003	General Fund Match	1,049,500	0	1,049,500
22	1004	Unrestricted General Fund	82,125,500	2,230,900	84,356,400
23		Receipts			
24	1005	General Fund/Program Receipts	2,208,800	0	2,208,800
25	1007	Interagency Receipts	20,966,500	0	20,966,500
26	1014	Donated Commodity/Handling Fee	501,800	0	501,800
27		Account			
28	1043	Federal Impact Aid for K-12	20,791,000	0	20,791,000
29		Schools			
30	1106	Alaska Student Loan Corporation	9,800,200	0	9,800,200
31		Receipts			
32	1108	Statutory Designated Program	2,795,400	0	2,795,400
33		Receipts			

1			New		
2			Operating	Legislation	Total
3	1145	Art in Public Places Fund	30,000	0	30,000
4	1151	Technical Vocational Education	548,200	0	548,200
5		Program Receipts			
6	*** Total Agency Funding ***		367,076,500	2,230,900	369,307,400
7	Department of Environmental Conservation				
8	1002	Federal Receipts	39,499,600	0	39,499,600
9	1003	General Fund Match	4,906,300	0	4,906,300
10	1004	Unrestricted General Fund	15,772,900	0	15,772,900
11		Receipts			
12	1005	General Fund/Program Receipts	7,434,800	0	7,434,800
13	1007	Interagency Receipts	1,604,100	0	1,604,100
14	1018	Exxon Valdez Oil Spill Trust--	6,900	0	6,900
15		Civil			
16	1052	Oil/Hazardous Release Prevention	14,139,100	0	14,139,100
17		& Response Fund			
18	1055	Interagency/Oil & Hazardous	400,300	0	400,300
19		Waste			
20	1061	Capital Improvement Project	5,579,900	0	5,579,900
21		Receipts			
22	1093	Clean Air Protection Fund	6,912,200	0	6,912,200
23	1108	Statutory Designated Program	63,500	0	63,500
24		Receipts			
25	1166	Commercial Passenger Vessel	1,515,600	0	1,515,600
26		Environmental Compliance Fund			
27	1205	Berth Fees for the Ocean Ranger	2,103,300	0	2,103,300
28		Program			
29	1230	Alaska Clean Water	1,180,900	0	1,180,900
30		Administrative Fund			
31	1231	Alaska Drinking Water	775,700	0	775,700
32		Administrative Fund			
33	1236	Alaska Liquefied Natural Gas	102,900	0	102,900

			New	
		Operating	Legislation	Total
1	Project Fund I/A			
2				
3	*** Total Agency Funding ***	101,998,000	0	101,998,000
4	<b>Department of Family and Community Services</b>			
5	1002 Federal Receipts	81,679,500	0	81,679,500
6	1003 General Fund Match	44,896,600	0	44,896,600
7	1004 Unrestricted General Fund	169,393,500	0	169,393,500
8	Receipts			
9	1005 General Fund/Program Receipts	25,785,800	0	25,785,800
10	1007 Interagency Receipts	84,535,500	150,000	84,685,500
11	1061 Capital Improvement Project	690,200	0	690,200
12	Receipts			
13	1108 Statutory Designated Program	13,342,600	0	13,342,600
14	Receipts			
15	*** Total Agency Funding ***	420,323,700	150,000	420,473,700
16	<b>Department of Fish and Game</b>			
17	1002 Federal Receipts	87,699,700	0	87,699,700
18	1003 General Fund Match	1,134,300	0	1,134,300
19	1004 Unrestricted General Fund	60,263,500	0	60,263,500
20	Receipts			
21	1005 General Fund/Program Receipts	4,119,000	0	4,119,000
22	1007 Interagency Receipts	18,091,400	0	18,091,400
23	1018 Exxon Valdez Oil Spill Trust--	2,557,900	0	2,557,900
24	Civil			
25	1024 Fish and Game Fund	35,150,900	0	35,150,900
26	1055 Interagency/Oil & Hazardous	114,000	0	114,000
27	Waste			
28	1061 Capital Improvement Project	6,342,200	0	6,342,200
29	Receipts			
30	1108 Statutory Designated Program	8,343,100	0	8,343,100
31	Receipts			
32	1109 Test Fisheries Receipts	3,496,100	0	3,496,100
33				

				New	
			Operating	Legislation	Total
1					
2					
3	1201	Commercial Fisheries Entry	6,187,000	0	6,187,000
4		Commission Receipts			
5	***	Total Agency Funding ***	233,499,100	0	233,499,100
6	<b>Office of the Governor</b>				
7	1002	Federal Receipts	227,800	0	227,800
8	1004	Unrestricted General Fund	24,087,400	0	24,087,400
9		Receipts			
10	1007	Interagency Receipts	3,198,200	0	3,198,200
11	1061	Capital Improvement Project	505,100	0	505,100
12		Receipts			
13	***	Total Agency Funding ***	28,018,500	0	28,018,500
14	<b>Department of Health</b>				
15	1002	Federal Receipts	2,016,375,200	583,500	2,016,958,700
16	1003	General Fund Match	740,885,700	773,500	741,659,200
17	1004	Unrestricted General Fund	85,585,100	0	85,585,100
18		Receipts			
19	1005	General Fund/Program Receipts	12,310,300	0	12,310,300
20	1007	Interagency Receipts	41,912,300	0	41,912,300
21	1013	Alcoholism and Drug Abuse	2,000	0	2,000
22		Revolving Loan Fund			
23	1050	Permanent Fund Dividend Fund	17,791,500	0	17,791,500
24	1061	Capital Improvement Project	2,268,300	0	2,268,300
25		Receipts			
26	1108	Statutory Designated Program	26,178,200	0	26,178,200
27		Receipts			
28	1168	Tobacco Use Education and	6,366,600	0	6,366,600
29		Cessation Fund			
30	1171	Restorative Justice Account	85,800	0	85,800
31	1247	Medicaid Monetary Recoveries	219,800	0	219,800
32	***	Total Agency Funding ***	2,949,980,800	1,357,000	2,951,337,800
33	<b>Department of Labor and Workforce Development</b>				

1			New		
2			Operating	Legislation	Total
3	1002	Federal Receipts	91,632,800	0	91,632,800
4	1003	General Fund Match	8,270,600	0	8,270,600
5	1004	Unrestricted General Fund	12,028,300	0	12,028,300
6		Receipts			
7	1005	General Fund/Program Receipts	5,148,700	0	5,148,700
8	1007	Interagency Receipts	14,378,700	0	14,378,700
9	1031	Second Injury Fund Reserve	2,864,300	0	2,864,300
10		Account			
11	1032	Fishermen's Fund	1,424,600	0	1,424,600
12	1049	Training and Building Fund	790,300	0	790,300
13	1054	Employment Assistance and	8,082,500	0	8,082,500
14		Training Program Account			
15	1061	Capital Improvement Project	99,800	0	99,800
16		Receipts			
17	1108	Statutory Designated Program	1,415,400	0	1,415,400
18		Receipts			
19	1117	Voc Rehab Small Business	124,200	0	124,200
20		Enterprise Revolving Fund			
21		(Federal)			
22	1151	Technical Vocational Education	7,570,600	0	7,570,600
23		Program Receipts			
24	1157	Workers Safety and Compensation	7,266,100	0	7,266,100
25		Administration Account			
26	1172	Building Safety Account	1,971,900	0	1,971,900
27	1203	Workers Compensation Benefits	785,100	0	785,100
28		Guarantee Fund			
29	1237	Voc Rehab Small Business	140,000	0	140,000
30		Enterprise Revolving Fund			
31		(State)			
32	***	Total Agency Funding ***	163,993,900	0	163,993,900
33	Department of Law				

1			New		
2			Operating	Legislation	Total
3	1002	Federal Receipts	2,076,300	0	2,076,300
4	1003	General Fund Match	551,400	0	551,400
5	1004	Unrestricted General Fund	60,306,800	0	60,306,800
6		Receipts			
7	1005	General Fund/Program Receipts	196,300	0	196,300
8	1007	Interagency Receipts	27,810,400	0	27,810,400
9	1055	Interagency/Oil & Hazardous	477,300	0	477,300
10		Waste			
11	1061	Capital Improvement Project	506,500	0	506,500
12		Receipts			
13	1105	Permanent Fund Corporation Gross	2,710,500	0	2,710,500
14		Receipts			
15	1108	Statutory Designated Program	1,272,700	0	1,272,700
16		Receipts			
17	1141	Regulatory Commission of Alaska	2,464,600	0	2,464,600
18		Receipts			
19	1168	Tobacco Use Education and	105,500	0	105,500
20		Cessation Fund			
21	*** Total Agency Funding ***		98,478,300	0	98,478,300
22	Department of Military and Veterans' Affairs				
23	1002	Federal Receipts	31,484,700	0	31,484,700
24	1003	General Fund Match	7,592,400	0	7,592,400
25	1004	Unrestricted General Fund	8,259,400	0	8,259,400
26		Receipts			
27	1005	General Fund/Program Receipts	28,500	0	28,500
28	1007	Interagency Receipts	5,251,400	0	5,251,400
29	1061	Capital Improvement Project	3,096,300	0	3,096,300
30		Receipts			
31	1101	Alaska Aerospace Corporation	2,859,800	0	2,859,800
32		Fund			
33	1108	Statutory Designated Program	835,100	0	835,100

1			New		
2			Operating	Legislation	Total
3	Receipts				
4	*** Total Agency Funding ***		59,407,600	0	59,407,600
5	Department of Natural Resources				
6	1002	Federal Receipts	17,967,500	0	17,967,500
7	1003	General Fund Match	814,200	0	814,200
8	1004	Unrestricted General Fund	71,578,000	0	71,578,000
9	Receipts				
10	1005	General Fund/Program Receipts	29,664,600	0	29,664,600
11	1007	Interagency Receipts	7,212,600	0	7,212,600
12	1018	Exxon Valdez Oil Spill Trust--	166,600	0	166,600
13	Civil				
14	1021	Agricultural Revolving Loan Fund	293,800	0	293,800
15	1055	Interagency/Oil & Hazardous	48,800	0	48,800
16	Waste				
17	1061	Capital Improvement Project	5,638,000	0	5,638,000
18	Receipts				
19	1105	Permanent Fund Corporation Gross	6,463,900	0	6,463,900
20	Receipts				
21	1108	Statutory Designated Program	13,706,900	0	13,706,900
22	Receipts				
23	1153	State Land Disposal Income Fund	5,208,200	0	5,208,200
24	1154	Shore Fisheries Development	468,200	0	468,200
25	Lease Program				
26	1155	Timber Sale Receipts	1,078,200	0	1,078,200
27	1192	Mine Reclamation Trust Fund	300	0	300
28	1200	Vehicle Rental Tax Receipts	5,607,400	0	5,607,400
29	1216	Boat Registration Fees	300,300	0	300,300
30	1217	Non-GF Miscellaneous Earnings	300	0	300
31	1236	Alaska Liquefied Natural Gas	531,200	0	531,200
32	Project Fund I/A				
33	*** Total Agency Funding ***		166,749,000	0	166,749,000

			New	
		Operating	Legislation	Total
3	<b>Department of Public Safety</b>			
4	1002 Federal Receipts	36,504,600	0	36,504,600
5	1004 Unrestricted General Fund	215,960,400	122,200	216,082,600
6	Receipts			
7	1005 General Fund/Program Receipts	6,694,600	0	6,694,600
8	1007 Interagency Receipts	9,547,700	0	9,547,700
9	1061 Capital Improvement Project	2,438,500	0	2,438,500
10	Receipts			
11	1108 Statutory Designated Program	204,400	0	204,400
12	Receipts			
13	1171 Restorative Justice Account	81,800	0	81,800
14	1220 Crime Victim Compensation Fund	868,000	0	868,000
15	*** Total Agency Funding ***	272,300,000	122,200	272,422,200
16	<b>Department of Revenue</b>			
17	1002 Federal Receipts	80,216,800	0	80,216,800
18	1003 General Fund Match	7,193,800	0	7,193,800
19	1004 Unrestricted General Fund	19,373,700	0	19,373,700
20	Receipts			
21	1005 General Fund/Program Receipts	2,043,400	0	2,043,400
22	1007 Interagency Receipts	10,970,500	0	10,970,500
23	1016 CSSD Federal Incentive Payments	1,796,100	0	1,796,100
24	1017 Group Health and Life Benefits	22,111,600	0	22,111,600
25	Fund			
26	1027 International Airports Revenue	195,700	0	195,700
27	Fund			
28	1029 Public Employees Retirement	15,547,400	0	15,547,400
29	Trust Fund			
30	1034 Teachers Retirement Trust Fund	7,230,900	0	7,230,900
31	1042 Judicial Retirement System	328,900	0	328,900
32	1045 National Guard & Naval Militia	238,700	0	238,700
33	Retirement System			



1				New	
2			Operating	Legislation	Total
3	1050	Permanent Fund Dividend Fund	10,190,500	0	10,190,500
4	1061	Capital Improvement Project	2,631,600	0	2,631,600
5		Receipts			
6	1066	Public School Trust Fund	844,800	0	844,800
7	1103	Alaska Housing Finance	35,368,300	0	35,368,300
8		Corporation Receipts			
9	1104	Alaska Municipal Bond Bank	912,800	360,000	1,272,800
10		Receipts			
11	1105	Permanent Fund Corporation Gross	217,992,800	0	217,992,800
12		Receipts			
13	1108	Statutory Designated Program	120,400	0	120,400
14		Receipts			
15	1133	CSSD Administrative Cost	778,500	0	778,500
16		Reimbursement			
17	1169	Power Cost Equalization	1,153,600	0	1,153,600
18		Endowment Fund Earnings			
19	***	Total Agency Funding ***	437,240,800	360,000	437,600,800
20	Department of Transportation and Public Facilities				
21	1002	Federal Receipts	2,038,200	0	2,038,200
22	1004	Unrestricted General Fund	80,394,400	255,600	80,650,000
23		Receipts			
24	1005	General Fund/Program Receipts	5,714,000	0	5,714,000
25	1007	Interagency Receipts	79,958,100	0	79,958,100
26	1026	Highways Equipment Working	37,132,800	0	37,132,800
27		Capital Fund			
28	1027	International Airports Revenue	98,107,400	0	98,107,400
29		Fund			
30	1061	Capital Improvement Project	176,357,700	0	176,357,700
31		Receipts			
32	1076	Alaska Marine Highway System	1,945,900	0	1,945,900
33		Fund			

1				New	
2			Operating	Legislation	Total
3	1108	Statutory Designated Program	386,200	0	386,200
4		Receipts			
5	1147	Public Building Fund	15,447,400	0	15,447,400
6	1200	Vehicle Rental Tax Receipts	6,404,000	0	6,404,000
7	1214	Whittier Tunnel Toll Receipts	1,799,800	0	1,799,800
8	1215	Unified Carrier Registration	733,200	0	733,200
9		Receipts			
10	1232	In-State Natural Gas Pipeline	31,100	0	31,100
11		Fund--Interagency			
12	1239	Aviation Fuel Tax Account	4,489,800	0	4,489,800
13	1244	Rural Airport Receipts	7,634,300	0	7,634,300
14	1245	Rural Airport Lease I/A	266,800	0	266,800
15	1249	Motor Fuel Tax Receipts	34,487,800	0	34,487,800
16	1265	COVID-19 Federal	21,577,500	0	21,577,500
17	1270	Federal Highway Administration	1,298,600	0	1,298,600
18		CRRSAA Funding			
19	***	Total Agency Funding ***	576,205,000	255,600	576,460,600
20	University of Alaska				
21	1002	Federal Receipts	187,225,900	0	187,225,900
22	1003	General Fund Match	4,777,300	0	4,777,300
23	1004	Unrestricted General Fund	285,593,900	0	285,593,900
24		Receipts			
25	1007	Interagency Receipts	11,116,000	0	11,116,000
26	1048	University of Alaska Restricted	304,203,800	0	304,203,800
27		Receipts			
28	1061	Capital Improvement Project	4,181,000	0	4,181,000
29		Receipts			
30	1151	Technical Vocational Education	6,167,300	0	6,167,300
31		Program Receipts			
32	1174	University of Alaska Intra-	58,121,000	0	58,121,000
33		Agency Transfers			

			New	
		Operating	Legislation	Total
1				
2				
3	1234 Special License Plates Receipts	1,000	0	1,000
4	*** Total Agency Funding ***	861,387,200	0	861,387,200
5	<b>Judiciary</b>			
6	1002 Federal Receipts	841,000	0	841,000
7	1004 Unrestricted General Fund	40,211,100	1,000,900	41,212,000
8	Receipts			
9	1007 Interagency Receipts	1,441,700	0	1,441,700
10	1108 Statutory Designated Program	585,000	0	585,000
11	Receipts			
12	1133 CSSD Administrative Cost	134,600	0	134,600
13	Reimbursement			
14	1271 ARPA Revenue Replacement	80,000,000	0	80,000,000
15	*** Total Agency Funding ***	123,213,400	1,000,900	124,214,300
16	<b>Legislature</b>			
17	1004 Unrestricted General Fund	69,112,000	0	69,112,000
18	Receipts			
19	1005 General Fund/Program Receipts	344,900	0	344,900
20	1007 Interagency Receipts	51,700	0	51,700
21	1171 Restorative Justice Account	343,100	0	343,100
22	*** Total Agency Funding ***	69,851,700	0	69,851,700
23	<b>Executive Branch-wide Appropriations</b>			
24	1002 Federal Receipts	0	463,600	463,600
25	1004 Unrestricted General Fund	0	30,074,000	30,074,000
26	Receipts			
27	1005 General Fund/Program Receipts	0	1,049,900	1,049,900
28	1007 Interagency Receipts	0	4,176,100	4,176,100
29	*** Total Agency Funding ***	0	35,763,600	35,763,600
30	<b>Fund Capitalization</b>			
31	1004 Unrestricted General Fund	0	12,852,700	12,852,700
32	Receipts			
33	*** Total Agency Funding ***	0	12,852,700	12,852,700

1			<b>New</b>	
2		<b>Operating</b>	<b>Legislation</b>	<b>Total</b>
3	<b>* * * * * Total Budget * * * * *</b>	<b>7,779,647,100</b>	<b>66,854,500</b>	<b>7,846,501,600</b>
4	<b>(SECTION 4 OF THIS ACT BEGINS ON THE NEXT PAGE)</b>			

\* **Sec. 4.** The following sets out the statewide funding for the appropriations made in sec. 1 and sec. 2 of this Act.

			New	
Funding Source		Operating	Legislation	Total
<b>Unrestricted General</b>				
1003	General Fund Match	823,531,400	773,500	824,304,900
1004	Unrestricted General Fund	1,641,591,200	45,854,100	1,687,445,300
	Receipts			
1271	ARPA Revenue Replacement	186,600,000	0	186,600,000
*** Total Unrestricted General ***		2,651,722,600	46,627,600	2,698,350,200
<b>Designated General</b>				
1005	General Fund/Program Receipts	146,759,100	1,294,800	148,053,900
1021	Agricultural Revolving Loan Fund	293,800	0	293,800
1031	Second Injury Fund Reserve	2,864,300	0	2,864,300
	Account			
1032	Fishermen's Fund	1,424,600	0	1,424,600
1036	Commercial Fishing Loan Fund	4,643,100	0	4,643,100
1040	Real Estate Recovery Fund	301,600	0	301,600
1048	University of Alaska Restricted	304,203,800	0	304,203,800
	Receipts			
1049	Training and Building Fund	790,300	0	790,300
1052	Oil/Hazardous Release Prevention	14,139,100	0	14,139,100
	& Response Fund			
1054	Employment Assistance and	8,082,500	0	8,082,500
	Training Program Account			
1062	Power Project Fund	996,400	0	996,400
1070	Fisheries Enhancement Revolving	656,300	0	656,300
	Loan Fund			
1074	Bulk Fuel Revolving Loan Fund	59,400	0	59,400
1076	Alaska Marine Highway System	1,945,900	0	1,945,900
	Fund			

1				New	
2			Operating	Legislation	Total
3	1109	Test Fisheries Receipts	3,496,100	0	3,496,100
4	1141	Regulatory Commission of Alaska	12,174,500	0	12,174,500
5		Receipts			
6	1151	Technical Vocational Education	14,286,100	0	14,286,100
7		Program Receipts			
8	1153	State Land Disposal Income Fund	5,208,200	0	5,208,200
9	1154	Shore Fisheries Development	468,200	0	468,200
10		Lease Program			
11	1155	Timber Sale Receipts	1,078,200	0	1,078,200
12	1156	Receipt Supported Services	22,068,700	137,400	22,206,100
13	1157	Workers Safety and Compensation	7,266,100	0	7,266,100
14		Administration Account			
15	1162	Alaska Oil & Gas Conservation	7,914,100	0	7,914,100
16		Commission Receipts			
17	1164	Rural Development Initiative	62,400	0	62,400
18		Fund			
19	1168	Tobacco Use Education and	6,472,100	0	6,472,100
20		Cessation Fund			
21	1169	Power Cost Equalization	1,535,400	15,694,800	17,230,200
22		Endowment Fund Earnings			
23	1170	Small Business Economic	59,100	0	59,100
24		Development Revolving Loan Fund			
25	1172	Building Safety Account	1,971,900	0	1,971,900
26	1200	Vehicle Rental Tax Receipts	12,011,400	0	12,011,400
27	1201	Commercial Fisheries Entry	6,187,000	0	6,187,000
28		Commission Receipts			
29	1202	Anatomical Gift Awareness Fund	80,000	0	80,000
30	1203	Workers Compensation Benefits	785,100	0	785,100
31		Guarantee Fund			
32	1210	Renewable Energy Grant Fund	1,401,200	0	1,401,200
33	1216	Boat Registration Fees	497,300	0	497,300

1	New				
2			Operating	Legislation	Total
3	1221	Civil Legal Services Fund	300	0	300
4	1223	Commercial Charter Fisheries RLF	20,200	0	20,200
5	1224	Mariculture RLF	20,500	0	20,500
6	1227	Alaska Microloan RLF	10,100	0	10,100
7	1234	Special License Plates Receipts	1,000	0	1,000
8	1237	Voc Rehab Small Business	140,000	0	140,000
9		Enterprise Revolving Fund			
10		(State)			
11	1247	Medicaid Monetary Recoveries	219,800	0	219,800
12	1249	Motor Fuel Tax Receipts	34,487,800	0	34,487,800
13	*** Total Designated General ***		627,083,000	17,127,000	644,210,000
14	Other Non-Duplicated				
15	1017	Group Health and Life Benefits	64,539,500	0	64,539,500
16		Fund			
17	1018	Exxon Valdez Oil Spill Trust--	2,731,400	0	2,731,400
18		Civil			
19	1023	FICA Administration Fund Account	211,200	0	211,200
20	1024	Fish and Game Fund	35,150,900	0	35,150,900
21	1027	International Airports Revenue	98,303,100	0	98,303,100
22		Fund			
23	1029	Public Employees Retirement	25,045,000	0	25,045,000
24		Trust Fund			
25	1034	Teachers Retirement Trust Fund	10,893,000	0	10,893,000
26	1042	Judicial Retirement System	450,100	0	450,100
27	1045	National Guard & Naval Militia	520,400	0	520,400
28		Retirement System			
29	1066	Public School Trust Fund	844,800	0	844,800
30	1093	Clean Air Protection Fund	6,912,200	0	6,912,200
31	1101	Alaska Aerospace Corporation	2,859,800	0	2,859,800
32		Fund			
33	1102	Alaska Industrial Development &	8,806,000	0	8,806,000

			<b>New</b>	
		<b>Operating</b>	<b>Legislation</b>	<b>Total</b>
1				
2				
3				
4	1103	Export Authority Receipts		
5		Alaska Housing Finance	35,368,300	0
6		Corporation Receipts		35,368,300
7	1104	Alaska Municipal Bond Bank	912,800	360,000
8		Receipts		1,272,800
9	1105	Permanent Fund Corporation Gross	227,167,200	0
10		Receipts		227,167,200
11	1106	Alaska Student Loan Corporation	9,800,200	0
12		Receipts		9,800,200
13	1107	Alaska Energy Authority	781,300	0
14		Corporate Receipts		781,300
15	1108	Statutory Designated Program	85,586,800	0
16		Receipts		85,586,800
17	1117	Voc Rehab Small Business	124,200	0
18		Enterprise Revolving Fund		124,200
19		(Federal)		
20	1166	Commercial Passenger Vessel	1,515,600	0
21		Environmental Compliance Fund		1,515,600
22	1192	Mine Reclamation Trust Fund	300	0
23	1205	Berth Fees for the Ocean Ranger	2,103,300	0
24		Program		2,103,300
25	1214	Whittier Tunnel Toll Receipts	1,799,800	0
26	1215	Unified Carrier Registration	733,200	0
27		Receipts		733,200
28	1217	Non-GF Miscellaneous Earnings	300	0
29	1230	Alaska Clean Water	1,180,900	0
30		Administrative Fund		1,180,900
31	1231	Alaska Drinking Water	775,700	0
32		Administrative Fund		775,700
33	1239	Aviation Fuel Tax Account	4,489,800	0
	1244	Rural Airport Receipts	7,634,300	0
				7,634,300



			New	
		Operating	Legislation	Total
3	*** Total Other Non-Duplicated ***	637,241,400	360,000	637,601,400
4	<b>Federal Receipts</b>			
5	1002 Federal Receipts	2,942,337,400	1,047,100	2,943,384,500
6	1013 Alcoholism and Drug Abuse	2,000	0	2,000
7	Revolving Loan Fund			
8	1014 Donated Commodity/Handling Fee	501,800	0	501,800
9	Account			
10	1016 CSSD Federal Incentive Payments	1,796,100	0	1,796,100
11	1033 Surplus Federal Property	543,400	0	543,400
12	Revolving Fund			
13	1043 Federal Impact Aid for K-12	20,791,000	0	20,791,000
14	Schools			
15	1133 CSSD Administrative Cost	913,100	0	913,100
16	Reimbursement			
17	1265 COVID-19 Federal	21,577,500	0	21,577,500
18	1270 Federal Highway Administration	1,298,600	0	1,298,600
19	CRRSAA Funding			
20	*** Total Federal Receipts ***	2,989,760,900	1,047,100	2,990,808,000
21	<b>Other Duplicated</b>			
22	1007 Interagency Receipts	442,390,000	1,293,100	443,683,100
23	1026 Highways Equipment Working	37,132,800	0	37,132,800
24	Capital Fund			
25	1050 Permanent Fund Dividend Fund	27,982,000	0	27,982,000
26	1055 Interagency/Oil & Hazardous	1,040,400	0	1,040,400
27	Waste			
28	1061 Capital Improvement Project	215,169,200	399,700	215,568,900
29	Receipts			
30	1081 Information Services Fund	63,924,200	0	63,924,200
31	1145 Art in Public Places Fund	30,000	0	30,000
32	1147 Public Building Fund	15,447,400	0	15,447,400
33	1171 Restorative Justice Account	7,716,100	0	7,716,100

1				New	
2			Operating	Legislation	Total
3	1174	University of Alaska Intra-	58,121,000	0	58,121,000
4		Agency Transfers			
5	1220	Crime Victim Compensation Fund	868,000	0	868,000
6	1232	In-State Natural Gas Pipeline	31,100	0	31,100
7		Fund--Interagency			
8	1235	Alaska Liquefied Natural Gas	3,086,100	0	3,086,100
9		Project Fund			
10	1236	Alaska Liquefied Natural Gas	634,100	0	634,100
11		Project Fund I/A			
12	1245	Rural Airport Lease I/A	266,800	0	266,800
13	***	Total Other Duplicated ***	873,839,200	1,692,800	875,532,000
14	(SECTION 5 OF THIS ACT BEGINS ON THE NEXT PAGE)				

\* **Sec. 5.** The following appropriation items are for operating expenditures from the general fund or other funds as set out in the fiscal year 2023 budget summary for the operating budget by funding source to the agencies named for the purposes expressed for the calendar year beginning January 1, 2023 and ending December 31, 2023, unless otherwise indicated.

	Appropriation	General	Other
	Allocations	Funds	Funds

\* \* \* \* \*

\* \* \* \* \*

**\* \* \* \* \* Department of Transportation and Public Facilities \* \* \* \* \***

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<b>Marine Highway System</b>	<b>143,831,200</b>	<b>60,063,000</b>	<b>83,768,200</b>
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It is the intent of the Legislature that the Department of Transportation and Public Facilities and the Alaska Marine Highway System, in order to decrease General Fund expenditures, make all efforts to spend the federal funding provided by the Infrastructure Investment & Jobs Act (P.L. 117-58) prior to using General Funds.

Marine Vessel Operations	104,680,100
Marine Vessel Fuel	20,905,900
Marine Engineering	3,058,300
Overhaul	1,700,000
Reservations and Marketing	1,528,700
Marine Shore Operations	7,782,500
Vessel Operations	4,175,700
Management	

(SECTION 6 OF THIS ACT BEGINS ON THE NEXT PAGE)

\* **Sec. 6.** The following sets out the funding by agency for the appropriations made in sec. 5 of this Act.

Funding Source	Amount
<b>Department of Transportation and Public Facilities</b>	
1002 Federal Receipts	82,899,500
1004 Unrestricted General Fund Receipts	60,063,000
1061 Capital Improvement Project Receipts	868,700
*** Total Agency Funding ***	143,831,200
* * * * * <b>Total Budget</b> * * * * *	<b>143,831,200</b>

(SECTION 7 OF THIS ACT BEGINS ON THE NEXT PAGE)

\* **Sec. 7.** The following sets out the statewide funding for the appropriations made in sec. 5 of this Act.

Funding Source	Amount
<b>Unrestricted General</b>	
1004 Unrestricted General Fund Receipts	60,063,000
*** Total Unrestricted General ***	60,063,000
<b>Federal Receipts</b>	
1002 Federal Receipts	82,899,500
*** Total Federal Receipts ***	82,899,500
<b>Other Duplicated</b>	
1061 Capital Improvement Project Receipts	868,700
*** Total Other Duplicated ***	868,700

(SECTION 8 OF THIS ACT BEGINS ON THE NEXT PAGE)

\* **Sec. 8.** The following appropriation items are for operating expenditures from the general fund or other funds as set out in section 9 of this Act to the agencies named for the purposes expressed for the fiscal year beginning July 1, 2021 and ending June 30, 2022, unless otherwise indicated. A department-wide, agency-wide, or branch-wide unallocated reduction set out in this section may be allocated among the appropriations made in this section to that department, agency, or branch.

		Appropriation	General	Other
	Allocations	Items	Funds	Funds
	* * * * *	* * * * *		
	* * * * * <b>Department of Administration</b> * * * * *			
	* * * * *	* * * * *		
<b>Centralized Administrative Services</b>		<b>846,000</b>	<b>846,000</b>	
Personnel	846,000			
<b>Shared Services of Alaska</b>		<b>142,000</b>		<b>142,000</b>
Office of Procurement and	142,000			
Property Management				
<b>Legal and Advocacy Services</b>		<b>1,105,000</b>	<b>1,000,000</b>	<b>105,000</b>
Office of Public Advocacy	1,105,000			
	* * * * *	* * * * *		
	* * * * * <b>Department of Corrections</b> * * * * *			
	* * * * *	* * * * *		
<b>Population Management</b>		<b>16,015,300</b>	<b>15,878,600</b>	<b>136,700</b>
Pre-Trial Services	3,948,100			
Correctional Academy	10,400			
Institution Director's	9,673,200			
Office				
Inmate Transportation	35,300			
Anchorage Correctional	366,600			
Complex				
Anvil Mountain Correctional	91,000			
Center				

		Appropriation	General	Other
		Allocations	Funds	Funds
1				
2				
3	Combined Hiland Mountain	175,900		
4	Correctional Center			
5	Fairbanks Correctional	156,200		
6	Center			
7	Goose Creek Correctional	499,600		
8	Center			
9	Ketchikan Correctional	58,300		
10	Center			
11	Lemon Creek Correctional	122,900		
12	Center			
13	Matanuska-Susitna	92,500		
14	Correctional Center			
15	Palmer Correctional Center	155,300		
16	Spring Creek Correctional	277,900		
17	Center			
18	Wildwood Correctional	186,800		
19	Center			
20	Yukon-Kuskokwim	122,300		
21	Correctional Center			
22	Point MacKenzie	43,000		
23	Correctional Farm			
24	<b>Electronic Monitoring</b>		<b>314,100</b>	<b>314,100</b>
25	Electronic Monitoring	314,100		
26	<b>Community Residential Centers</b>		<b>2,654,900</b>	<b>2,654,900</b>
27	Community Residential	2,654,900		
28	Centers			
29	<b>Health and Rehabilitation Services</b>		<b>-3,873,000</b>	<b>-3,873,000</b>
30	Physical Health Care	-1,837,500		
31	Behavioral Health Care	-600,000		
32	Substance Abuse Treatment	-1,239,000		
33	Program			

		Appropriation	General	Other
		Allocations	Funds	Funds
1				
2				
3	Sex Offender Management	-196,500		
4	Program			
5	<b>Offender Habilitation</b>	<b>-127,000</b>	<b>-127,000</b>	
6	Education Programs	-97,000		
7	Vocational Education	-30,000		
8	Programs			
9	*****	*****		
10	***** Department of Education and Early Development *****			
11	*****	*****		
12	<b>Education Support and Administrative</b>	<b>258,400</b>	<b>258,400</b>	
13	<b>Services</b>			
14	School Finance & Facilities	180,000		
15	Student and School	78,400		
16	Achievement			
17	<b>Alaska State Libraries, Archives and</b>	<b>-1,000,000</b>	<b>-1,000,000</b>	
18	<b>Museums</b>			
19	Broadband Assistance Grants	-1,000,000		
20	*****	*****		
21	***** Department of Environmental Conservation *****			
22	*****	*****		
23	<b>DEC Buildings Maintenance and</b>	<b>175,000</b>		<b>175,000</b>
24	<b>Operations</b>			
25	DEC Buildings Maintenance	175,000		
26	and Operations			
27	<b>Environmental Health</b>	<b>250,000</b>	<b>250,000</b>	
28	Environmental Health	250,000		
29	<b>Water</b>	<b>450,000</b>		<b>450,000</b>
30	Water Quality,	450,000		
31	Infrastructure Support &			
32	Financing			
33	*****	*****		



		Appropriation	General	Other
	Allocations	Items	Funds	Funds
	* * * * * Department of Fish and Game * * * * *			
	* * * * *	* * * * *		
5	<b>Commercial Fisheries</b>	<b>0</b>	<b>574,300</b>	<b>-574,300</b>
6	Southeast Region Fisheries	0		
7	Management			
8	Central Region Fisheries	0		
9	Management			
10	AYK Region Fisheries	0		
11	Management			
12	Westward Region Fisheries	0		
13	Management			
14	Statewide Fisheries	0		
15	Management			
16	<b>Sport Fisheries</b>	<b>0</b>	<b>36,400</b>	<b>-36,400</b>
17	Sport Fisheries	0		
18	<b>Wildlife Conservation</b>	<b>0</b>	<b>524,600</b>	<b>-524,600</b>
19	Wildlife Conservation	0		
20	<b>Habitat</b>	<b>0</b>	<b>7,800</b>	<b>-7,800</b>
21	Habitat	0		
22	<b>Subsistence Research and Monitoring</b>	<b>0</b>	<b>90,200</b>	<b>-90,200</b>
23	Subsistence Research and	0		
24	Monitoring			
25	* * * * *	* * * * *		
26	* * * * * Department of Health and Social Services * * * * *			
27	* * * * *	* * * * *		
28	<b>Alaska Pioneer Homes</b>	<b>2,800,000</b>	<b>2,000,000</b>	<b>800,000</b>
29	Pioneer Homes	2,800,000		
30	<b>Behavioral Health</b>	<b>500,000</b>	<b>500,000</b>	
31	Behavioral Health	500,000		
32	Administration			
33	<b>Public Assistance</b>	<b>2,164,000</b>	<b>1,850,000</b>	<b>314,000</b>

		Appropriation	General	Other
		Allocations	Funds	Funds
1				
2				
3	Energy Assistance Program	314,000		
4	Public Assistance Field	1,850,000		
5	Services			
6		* * * * *	* * * * *	
7		* * * * * Department of Labor and Workforce Development * * * * *		
8		* * * * *	* * * * *	
9	<b>Commissioner and Administrative</b>	<b>786,500</b>	<b>786,500</b>	
10	<b>Services</b>			
11	Workforce Investment Board	786,500		
12	<b>Alaska Vocational Technical Center</b>	<b>333,200</b>	<b>333,200</b>	
13	Alaska Vocational Technical	333,200		
14	Center			
15		* * * * *	* * * * *	
16		* * * * * Department of Military and Veterans' Affairs * * * * *		
17		* * * * *	* * * * *	
18	<b>Military and Veterans' Affairs</b>	<b>791,800</b>		<b>791,800</b>
19	Army Guard Facilities	791,800		
20	Maintenance			
21		* * * * *	* * * * *	
22		* * * * * Department of Natural Resources * * * * *		
23		* * * * *	* * * * *	
24	<b>Fire Suppression, Land &amp; Water</b>	<b>20,130,300</b>	<b>20,130,300</b>	
25	<b>Resources</b>			
26	Geological & Geophysical	130,300		
27	Surveys			
28	Fire Suppression Activity	20,000,000		
29	<b>Parks &amp; Outdoor Recreation</b>	<b>525,000</b>	<b>525,000</b>	
30	Parks Management & Access	525,000		
31		* * * * *	* * * * *	
32		* * * * * Department of Public Safety * * * * *		
33		* * * * *	* * * * *	

		Appropriation	General	Other
	Allocations	Items	Funds	Funds
1				
2				
3	<b>Alaska State Troopers</b>	<b>1,400,000</b>	<b>1,400,000</b>	
4	Alaska Wildlife Troopers	1,400,000		
5	Aircraft Section			
6	<b>Statewide Support</b>	<b>1,183,400</b>	<b>1,183,400</b>	
7	Criminal Justice	893,400		
8	Information Systems Program			
9	Laboratory Services	290,000		
10	* * * * *	* * * * *		
11	* * * * * Department of Transportation and Public Facilities * * * * *			
12	* * * * *	* * * * *		
13	<b>Administration and Support</b>	<b>0</b>	<b>1,591,000</b>	<b>-1,591,000</b>
14	Commissioner's Office	0		
15	Contracting and Appeals	0		
16	Statewide Administrative	0		
17	Services			
18	Information Systems and	0		
19	Services			
20	Statewide Procurement	0		
21	Southcoast Region Support	0		
22	Services			
23	<b>Design, Engineering and Construction</b>	<b>200,000</b>	<b>517,700</b>	<b>-317,700</b>
24	Statewide Design and	0		
25	Engineering Services			
26	Northern Design and	200,000		
27	Engineering Services			
28	<b>Highways, Aviation and Facilities</b>	<b>279,000</b>	<b>324,000</b>	<b>-45,000</b>
29	Southcoast Region	0		
30	Facilities			
31	Northern Region Highways	279,000		
32	and Aviation			
33	* * * * *	* * * * *		

		Appropriation	General	Other
	Allocations	Items	Funds	Funds
	* * * * * University of Alaska * * * * *			
	* * * * *	* * * * *		
5	<b>University of Alaska</b>	<b>881,800</b>	<b>881,800</b>	
6	Budget Reductions/Additions	881,800		
7	- Systemwide			
8	* * * * *	* * * * *		
9	* * * * * Legislature * * * * *			
10	* * * * *	* * * * *		
11	<b>Legislative Council</b>	<b>150,000</b>	<b>150,000</b>	
12	Administrative Services	150,000		
13	<b>Legislative Operating Budget</b>	<b>1,995,000</b>	<b>1,995,000</b>	
14	Legislators' Salaries and	1,995,000		
15	Allowances			
16	(SECTION 9 OF THIS ACT BEGINS ON THE NEXT PAGE)			

\* **Sec. 9.** The following sets out the funding by agency for the appropriations made in sec. 8 of this Act.

Funding Source	Amount
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**Department of Administration**

1003	General Fund Match	250,000
1004	Unrestricted General Fund Receipts	-23,404,000
1033	Surplus Federal Property Revolving Fund	142,000
1108	Statutory Designated Program Receipts	105,000
1271	ARPA Revenue Replacement	25,000,000
***	Total Agency Funding ***	2,093,000

**Department of Corrections**

1002	Federal Receipts	136,700
1004	Unrestricted General Fund Receipts	-135,175,900
1005	General Fund/Program Receipts	23,500
1271	ARPA Revenue Replacement	150,000,000
***	Total Agency Funding ***	14,984,300

**Department of Education and Early Development**

1004	Unrestricted General Fund Receipts	-820,000
1151	Technical Vocational Education Program Receipts	78,400
***	Total Agency Funding ***	-741,600

**Department of Environmental Conservation**

1002	Federal Receipts	625,000
1004	Unrestricted General Fund Receipts	250,000
***	Total Agency Funding ***	875,000

**Department of Fish and Game**

1002	Federal Receipts	-939,100
1004	Unrestricted General Fund Receipts	3,040,400
1005	General Fund/Program Receipts	-1,807,100
1007	Interagency Receipts	-57,800
1024	Fish and Game Fund	-3,800
1061	Capital Improvement Project Receipts	-75,200

1	1108	Statutory Designated Program Receipts	-157,400
2	<b>Department of Health and Social Services</b>		
3	1002	Federal Receipts	1,114,000
4	1003	General Fund Match	1,850,000
5	1004	Unrestricted General Fund Receipts	-74,500,000
6	1005	General Fund/Program Receipts	2,000,000
7	1271	ARPA Revenue Replacement	75,000,000
8	*** Total Agency Funding ***		5,464,000
9	<b>Department of Labor and Workforce Development</b>		
10	1151	Technical Vocational Education Program Receipts	1,119,700
11	*** Total Agency Funding ***		1,119,700
12	<b>Department of Military and Veterans' Affairs</b>		
13	1002	Federal Receipts	791,800
14	*** Total Agency Funding ***		791,800
15	<b>Department of Natural Resources</b>		
16	1004	Unrestricted General Fund Receipts	5,655,300
17	1271	ARPA Revenue Replacement	15,000,000
18	*** Total Agency Funding ***		20,655,300
19	<b>Department of Public Safety</b>		
20	1004	Unrestricted General Fund Receipts	-8,310,000
21	1005	General Fund/Program Receipts	893,400
22	1271	ARPA Revenue Replacement	10,000,000
23	*** Total Agency Funding ***		2,583,400
24	<b>Department of Transportation and Public Facilities</b>		
25	1004	Unrestricted General Fund Receipts	-12,767,300
26	1005	General Fund/Program Receipts	200,000
27	1270	Federal Highway Administration CRRSAA Funding	-1,953,700
28	1271	ARPA Revenue Replacement	15,000,000
29	*** Total Agency Funding ***		479,000
30	<b>University of Alaska</b>		
31	1151	Technical Vocational Education Program Receipts	881,800

1	*** Total Agency Funding ***	881,800
2	<b>Judiciary</b>	
3	1004 Unrestricted General Fund Receipts	-10,000,000
4	1271 ARPA Revenue Replacement	10,000,000
5	<b>Legislature</b>	
6	1004 Unrestricted General Fund Receipts	1,995,000
7	1005 General Fund/Program Receipts	150,000
8	*** Total Agency Funding ***	2,145,000
9	<b>* * * * * Total Budget * * * * *</b>	<b>51,330,700</b>
10	(SECTION 10 OF THIS ACT BEGINS ON THE NEXT PAGE)	

\* **Sec. 10.** The following sets out the statewide funding for the appropriations made in sec. 8 of this Act.

Funding Source	Amount
<b>Unrestricted General</b>	
1003 General Fund Match	2,100,000
1004 Unrestricted General Fund Receipts	-254,036,500
1271 ARPA Revenue Replacement	300,000,000
*** Total Unrestricted General ***	48,063,500
<b>Designated General</b>	
1005 General Fund/Program Receipts	1,459,800
1151 Technical Vocational Education Program Receipts	2,079,900
*** Total Designated General ***	3,539,700
<b>Other Non-Duplicated</b>	
1024 Fish and Game Fund	-3,800
1108 Statutory Designated Program Receipts	-52,400
*** Total Other Non-Duplicated ***	-56,200
<b>Federal Receipts</b>	
1002 Federal Receipts	1,728,400
1033 Surplus Federal Property Revolving Fund	142,000
1270 Federal Highway Administration CRRSAA Funding	-1,953,700
*** Total Federal Receipts ***	-83,300
<b>Other Duplicated</b>	
1007 Interagency Receipts	-57,800
1061 Capital Improvement Project Receipts	-75,200
*** Total Other Duplicated ***	-133,000

(SECTION 11 OF THIS ACT BEGINS ON THE NEXT PAGE)



\* **Sec. 11.** The following appropriation items are for capital projects and grants from the general fund or other funds as set out in section 12 of this Act by funding source to the agencies named for the purposes expressed and lapse under AS 37.25.020, unless otherwise noted.

	Appropriation	General	Other
	Allocations	Funds	Funds
	* * * * *	* * * * *	
	<b>* * * * * Department of Commerce, Community and Economic Development * * * * *</b>		
	* * * * *	* * * * *	
Alaska Energy Authority- Alaska Grid	12,110,523		12,110,523
Resilience and Reliability - Formula			
(HD 1-40)			
Alaska Energy Authority - Bulk Fuel	13,000,000	5,500,000	7,500,000
Upgrades (HD 1-40)			
Alaska Energy Authority - Electrical	200,000	200,000	
Emergencies Program (HD 1-40)			
Alaska Energy Authority - Round XIV	15,000,000	15,000,000	
Renewable Energy Project Grants (AS			
42.45.045) (HD 1-40)			
Alaska Energy Authority - Rural Power	20,000,000	10,000,000	10,000,000
Systems Upgrades (HD 1-40)			
Alaska Energy Authority - Strategic	2,500,000	2,500,000	
Plan for Railbelt Assets (HD 1-40)			
Alaska Mariculture Alliance --	5,000,000	5,000,000	
Economic Recovery Mariculture			
Incentive Grant Program (HD 1-40)			
Alaska Seafood Marketing Institute-	300,000	300,000	
Food Aid to Ukraine- Alaska Canned			
Salmon (HD 1-40)			
Alaska SeaLife Center Facilities	2,500,000		2,500,000
Project (HD 29-31)			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Alutiiq Museum & Archaeological	7,339,450		7,339,450
4	Repository (HD 32)			
5	Broadband Equity Access and Deployment	6,000,000		6,000,000
6	Program and Digital Equity Plan (HD 1-			
7	40)			
8	Chugach Region Archaeological	6,277,685		6,277,685
9	Repository (HD 12-28)			
10	Community Block Grants (HD 1-40)	6,315,000	65,000	6,250,000
11	Replace Alcohol Licensing Database (HD	750,000	750,000	
12	1-40)			
13	<b>Grants to Named Recipients (AS</b>			
14	<b>37.05.316)</b>			
15	Abused Women Aid In Crisis, Inc. -	347,000	347,000	
16	Shelter And Transitional Housing			
17	Renovations (HD 20)			
18	Alaska Black Caucus - Construction of	300,000	300,000	
19	the Equity Center (HD 20)			
20	Alaska Search and Rescue Association -	294,300	294,300	
21	Search and Rescue Statewide Training			
22	(HD 1-40)			
23	Dimond Alumni Special Projects Inc. -	588,775	588,775	
24	Replace Diving Boards (HD 12-28)			
25	Inter-Island Ferry Authority (HD 33-	250,000	250,000	
26	36)			
27	<b>Grants to Municipalities (AS</b>			
28	<b>37.05.315)</b>			
29	City of Nome - Arctic Deep Draft Port	150,300,000	150,300,000	
30	(HD 39)			
31	City of Nome - Deep Draft Port (HD 39)	25,000,000	25,000,000	
32	Kenai River Bluff Stabilization (HD	6,500,000	6,500,000	
33	29-31)			

		Appropriation	General	Other
	Allocations	Items	Funds	Funds
1				
2				
3	Wrangell - Water Treatment Plant	4,100,000	4,100,000	
4	Improvements (HD 36)			
5	<b>Alternative Energy and Energy</b>	<b>3,655,600</b>		<b>3,655,600</b>
6	<b>Efficiency</b>			
7	Alaska Energy Authority -	63,600		
8	New Energy Auditor Training			
9	Grant Program (HD 1-40)			
10	Alaska Energy Authority -	796,000		
11	New Energy Efficiency			
12	Revolving Loan Fund			
13	Capitalization Program (HD			
14	1-40)			
15	Alaska Energy Authority -	796,000		
16	State Energy Program (HD 1-			
17	40)			
18	Alaska Energy Authority -	2,000,000		
19	Energy Efficiency			
20	Conservation Block Grants			
21	(HD 1-40)			
22	*****	*****		
23	***** <b>Department of Education and Early Development</b> *****			
24	*****	*****		
25	<b>Major Maintenance Grant Fund (AS</b>			
26	<b>14.11.007)</b>			
27	Major Maintenance Grant Fund for	100,000,000	100,000,000	
28	School Major Maintenance (HD 1-40)			
29	*****	*****		
30	***** <b>Department of Environmental Conservation</b> *****			
31	*****	*****		
32	Alaska Enhanced Air Quality Monitoring	650,000		650,000
33	(HD 1-40)			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Clean Water Capitalization Grant	1,000,000		1,000,000
4	Subsidy (HD 1-40)			
5	Clean Water Capitalization Grant	9,241,939		9,241,939
6	Subsidy - IIJA, Division J, Title VI			
7	(HD 1-40)			
8	Clean Water Capitalization Grant	989,820		989,820
9	Subsidy Emerging Contaminants - IIJA,			
10	Division J, Title VI (HD 1-40)			
11	Drinking Water Capitalization Grant	2,900,000		2,900,000
12	Subsidy (HD 1-40)			
13	Drinking Water Capitalization Grant	6,246,545		6,246,545
14	Subsidy - IIJA, Division J, Title VI			
15	(HD 1-40)			
16	Drinking Water Capitalization Grant	5,353,400		5,353,400
17	Subsidy Emerging Contaminants- IIJA,			
18	Division J, Title VI (HD 1-40)			
19	Drinking Water Capitalization Grant	9,836,873		9,836,873
20	Subsidy Lead Service Lines IIJA,			
21	Division J, Title VI (HD 1-40)			
22	EVOS Impaired Beaches Project (HD 9)	658,432		658,432
23	Fairbanks PM2.5 Nonattainment Area	5,684,800		5,684,800
24	Voluntary Heating Device Change Out			
25	Program (HD 1-5)			
26	<b>Village Safe Water and Wastewater</b>	<b>117,250,000</b>	<b>19,500,000</b>	<b>97,750,000</b>
27	<b>Infrastructure Projects</b>			
28	Village Safe Water and	46,900,000		
29	Wastewater Infrastructure			
30	Projects - Expansion,			
31	Upgrade, and Replacement of			
32	Existing Service (HD 1-40)			
33	Village Safe Water and	70,350,000		

		Appropriation	General	Other
		Allocations	Funds	Funds
1				
2				
3	Wastewater Infrastructure			
4	Projects - First Time			
5	Service Projects (HD 1-40)			
6		* * * * *	* * * * *	
7		* * * * * Department of Fish and Game * * * * *		
8		* * * * *	* * * * *	
9	EVOS Prince William Sound Pollock and	4,129,317		4,129,317
10	Herring Interaction (HD 1-40)			
11	EVOS Gulf Watch Alaska Herring	1,908,299		1,908,299
12	Research and Monitoring (HD 1-40)			
13	EVOS Mariculture - Marine Mammals (HD	1,660,000		1,660,000
14	1-40)			
15	EVOS Kenai Peninsula Cost Share (HD	400,000		400,000
16	31)			
17	Endangered Species Act (HD 1-40)	4,000,000	2,000,000	2,000,000
18	Facilities, Vessels, and Aircraft	500,000	500,000	
19	Maintenance, Repair, and Upgrades (HD			
20	1-40)			
21	Pacific Salmon Treaty Chinook Fishery	6,400,000		6,400,000
22	Mitigation (HD 1-40)			
23	Pacific Coastal Salmon Recovery Fund	4,400,000		4,400,000
24	(HD 1-40)			
25	Sport Fish Recreational Boating and	9,000,000	1,500,000	7,500,000
26	Angler Access (HD 1-40)			
27	Alaska Marine Salmon Program (HD 1-40)	1,150,000	1,150,000	
28		* * * * *	* * * * *	
29		* * * * * Office of the Governor * * * * *		
30		* * * * *	* * * * *	
31	Statewide Deferred Maintenance,	50,000,000	50,000,000	
32	Renovation, and Repair (HD 1-40)			
33		* * * * *	* * * * *	

	Appropriation	General	Other
	Allocations	Funds	Funds
	* * * * * Health * * * * *		
	* * * * *	* * * * *	
1	Division of Public Assistance E-forms	8,000,000	4,000,000
2	and Online Noticing (HD 1-40)		4,000,000
3	Division of Public Assistance	23,500,000	4,700,000
4	Eligibility System Replacement (HD 1-		18,800,000
5	40)		
6	Emergency Medical Services Match for	500,000	500,000
7	Code Blue Project (HD 1-40)		
8	Health Information Exchange (HD 1-40)	6,120,000	5,220,000
9			900,000
10	* * * * *	* * * * *	
11	* * * * * Department of Military and Veterans Affairs * * * * *		
12	* * * * *	* * * * *	
13	DMVA Deferred Maintenance,	12,000,000	12,000,000
14	Replacement, and Renewal (HD 1-40)		
15	Homeland Security State and Local	11,404,400	240,400
16	Cybersecurity Grant Program - IIJA		11,164,000
17	Division J, Title VI (HD 1-40)		
18	* * * * *	* * * * *	
19	* * * * * Department of Natural Resources * * * * *		
20	* * * * *	* * * * *	
21	Abandoned Mine Lands Reclamation	4,533,000	4,533,000
22	Federal Program (HD 1-40)		
23	Arctic Strategic Transportation and	2,500,000	2,500,000
24	Resource Project (HD 40)		
25	Big Eddy EVOS Restoration and	4,329,567	4,329,567
26	Improvements (HD 1-40)		
27	Coastal and Nearshore Mapping of	5,000,000	5,000,000
28	Alaska (HD 1-40)		
29	Community Wildfire Defense Grants (HD	10,000,000	10,000,000
30	1-40)		

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Critical Minerals Mapping - Earth MRI	10,500,000	2,750,000	7,750,000
4	(3DEEP) (HD 1-40)			
5	Fire Crew Vehicle Replacement (HD 1-	720,000	720,000	
6	40)			
7	Geological Mapping for Energy	1,200,000	600,000	600,000
8	Development (USGS STATEMAP) (HD 1-40)			
9	Land and Water Conservation Fund	4,200,000	1,600,000	2,600,000
10	Federal Grant Program (HD 1-40)			
11	Land Sales - New Subdivision	500,000	500,000	
12	Development (HD 1-40)			
13	National Geological and Geophysical	3,290,000	1,000,000	2,290,000
14	Data Preservation Program (NGGDPP) (HD			
15	1-40)			
16	National Historic Preservation Fund	800,000	200,000	600,000
17	(HD 1-40)			
18	National Recreational Trails Federal	1,650,000	150,000	1,500,000
19	Grant Program (HD 1-40)			
20	Potter Marsh Watershed Conservation	1,000,000		1,000,000
21	Project Phase I (HD 1-40)			
22	RS2477 Access Development - Advancing	2,500,000	2,500,000	
23	State's Rights in Navigability and			
24	Revised Statute 2477 (HD 1-40)			
25	Snowmobile Trail Development Program	250,000	250,000	
26	and Grants (HD 1-40)			
27	State Park Electronic Fee Stations (HD	650,000	650,000	
28	1-40)			
29	Statewide Park Sanitation Deferred	1,418,000	1,418,000	
30	Maintenance and Facility Upgrades (HD			
31	1-40)			
32	* * * * *	* * * * *		
33	* * * * * <b>Department of Public Safety</b> * * * * *			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
	* * * * *	* * * * *		
4	Law Enforcement Off Highway Vehicle	750,000	750,000	
5	Replacement (HD 1-40)			
6	Marine Fisheries Patrol Improvements	1,200,000		1,200,000
7	(HD 1-40)			
8	AWT Medium-Class Vessel Replacement	1,800,000	1,800,000	
9	(HD 1-40)			
10	* * * * *	* * * * *		
11	<b>* * * * * Department of Revenue * * * * *</b>			
12	* * * * *	* * * * *		
13	<b>Alaska Housing Finance Corporation</b>			
14	AHFC Competitive Grants for Public	1,350,000	350,000	1,000,000
15	Housing (HD 1-40)			
16	AHFC Senior Citizens Housing	1,750,000	1,750,000	
17	Development Program (HD 1-40)			
18	AHFC Energy Efficiency Research (HD 1-	3,000,000	1,000,000	2,000,000
19	40)			
20	AHFC Energy Programs Weatherization	23,186,814	1,800,000	21,386,814
21	(HD 1-40)			
22	AHFC Federal and Other Competitive	7,500,000	1,500,000	6,000,000
23	Grants (HD 1-40)			
24	AHFC Housing and Urban Development	3,200,000		3,200,000
25	Capital Fund Program (HD 1-40)			
26	AHFC Housing and Urban Development	4,750,000	750,000	4,000,000
27	Federal HOME Grant (HD 1-40)			
28	AHFC Rental Assistance for Persons	1,500,000	1,500,000	
29	Displaced Due to Domestic Violence -			
30	Empowering Choice Housing Program			
31	(ECHP) (HD 1-40)			
32	AHFC Supplemental Housing Development	3,000,000	3,000,000	
33	Program (HD 1-40)			



		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
1	AHFC Teacher, Health, and Public	21,250,000	18,750,000	2,500,000
2	Safety Professionals Housing (HD 1-40)			
3	* * * * *	* * * * *		
4	* * * * * <b>Department of Transportation and Public Facilities</b> * * * * *			
5	* * * * *	* * * * *		
6	Alaska Marine Highway System Vessel	20,000,000	20,000,000	
7	Overhaul, Annual Certification and			
8	Shoreside Facilities Rehabilitation			
9	(HD 1-40)			
10	State Equipment Fleet Replacement (HD	30,000,000		30,000,000
11	1-40)			
12	State Funded Road and Bridge	30,000,000	30,000,000	
13	Completion (HD 1-40)			
14	Alaska Marine Highway Planning and	30,000,000		30,000,000
15	Design of Mainline Vessel Replacement			
16	(HD 1-40)			
17	<b>Airport Improvement Program</b>	<b>447,161,590</b>		<b>447,161,590</b>
18	Adak Airport Aircraft	740,460		
19	Rescue and Fire Fighting			
20	Vehicle (HD 37)			
21	Adak Pavement Markings (HD	99,000		
22	37)			
23	AIAS - Infrastructure State	20,600,000		
24	Match (HD 1-40)			
25	AIAS: Infrastructure	15,000,000		
26	Contingency (HD 1-40)			
27	Allakaket Minor Gravel	328,000		
28	Resurfacing and Dust			
29	Palliative (HD 40)			
30	Angoon Airport Right of Way	5,500,000		
31	(HD 35)			
32				
33				

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Barrow Pavement Markings	71,000		
4	and Crack Seal (HD 40)			
5	Bethel Airport Aircraft	1,080,000		
6	Rescue and Fire Fighting			
7	Vehicle (HD 38)			
8	Buckland Airport	10,500,000		
9	Rehabilitation (HD 40)			
10	Chalkyitsik Airport	8,000,000		
11	Reconstruction (HD 6)			
12	Chefornak Grader (HD 38)	355,000		
13	Chenega Bay Snow Blower	333,000		
14	(HD 32)			
15	Chevak Airport	15,051,000		
16	Rehabilitation (HD 39)			
17	Chignik Airport Snow	371,000		
18	Removal Equipment Building			
19	Rehabilitation (HD 37)			
20	Chuathbaluk Grader (HD 38)	372,000		
21	Coldfoot Minor Gravel	328,000		
22	Resurfacing and Dust			
23	Palliative (HD 40)			
24	Cordova Airport Aircraft	1,906,000		
25	Rescue and Fire Fighting,			
26	Broom, Pavement Markings			
27	and Crack Seal (HD 32)			
28	Deadhorse Pavement Markings	71,000		
29	and Crack Seal (HD 40)			
30	Deering Airport Rehab and	16,600,000		
31	Airport Access Road			
32	Construction (HD 40)			
33	Dillingham Pavement	235,000		

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Markings and Crack Seal (HD			
4	37)			
5	Eek Minor Gravel	328,000		
6	Resurfacing and Dust			
7	Palliative (HD 38)			
8	FIA - Advanced Project	32,619		
9	Design and Planning (HD 1-			
10	40)			
11	FIA - Airport Parking	37,500,000		
12	Facility (HD 1-40)			
13	FIA - Annual Improvements	358,813		
14	(HD 1-40)			
15	FIA - Environmental (HD 1-	225,102		
16	40)			
17	FIA - Equipment (HD 1-40)	1,382,813		
18	FIA - Facility	130,477		
19	Improvements, Renovations,			
20	& Upgrades (HD 1-40)			
21	FIA - Information	112,551		
22	Technology Improvements (HD			
23	1-40)			
24	FIA - West Ramp	3,281,250		
25	Improvements (HD 1-40)			
26	Fort Yukon Minor Gravel	328,000		
27	Resurfacing and Dust			
28	Palliative (HD 6)			
29	Galena Dump Truck (HD 39)	382,000		
30	Gambell Snow Removal	2,200,000		
31	Equipment Building			
32	Replacement (HD 39)			
33	Golovin Loader (HD 39)	382,000		

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Haines Airport Resurfacing	23,000,000		
4	(HD 33)			
5	Haines Airport Snow Removal	2,000,000		
6	Equipment Building (HD 33)			
7	Huslia Minor Gravel	709,000		
8	Resurfacing, Dust			
9	Palliative and Dozer			
10	Replacement (HD 39)			
11	Hydaburg Seaplane Base	1,000,000		
12	Rehabilitation (HD 36)			
13	Ketchikan Pavement Markings	188,000		
14	(HD 36)			
15	Ketchikan Seaplane Base	3,000,000		
16	Haulout Facility (HD 36)			
17	Ketchikan Terminal	8,500,000		
18	Expansion and Apron			
19	Hardstands (HD 36)			
20	King Salmon Rehabilitation	8,900,000		
21	(HD 37)			
22	Kodiak Airport	27,000,000		
23	Rehabilitation - Stage 1			
24	(HD 32)			
25	Kotzebue Pavement Markings	71,000		
26	and Crack Seal (HD 40)			
27	Kwethluk Airport	36,253,000		
28	Rehabilitation (HD 38)			
29	Lake Minchumina Loader (HD	387,000		
30	37)			
31	Little Diomed Helipad	3,000,000		
32	Rehabilitation and Lighting			
33	Replacement (HD 39)			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Manley Airport Improvements	4,700,000		
4	(HD 6)			
5	Marshall Airport	11,600,000		
6	Rehabilitation (HD 38)			
7	Mekoryuk Airport	30,882,000		
8	Rehabilitation and Snow			
9	Removal Equipment Building			
10	Replacement (HD 38)			
11	Mountain Village Snow	2,000,000		
12	Removal Equipment Building			
13	Replacement (HD 39)			
14	Nikolai Loader (HD 37)	306,000		
15	Nulato Minor Gravel	709,000		
16	Resurfacing and Dust			
17	Palliative & Dozer			
18	Replacement (HD 39)			
19	Petersburg Obstruction	219,000		
20	Removal (HD 35)			
21	Petersburg Pavement	177,000		
22	Markings and Crack Seal (HD			
23	35)			
24	Petersburg Self Propelled	835,000		
25	Runway Broom (HD 35)			
26	Point Hope Airport Runway	21,700,000		
27	Realignment - Stage 1 & 2			
28	(HD 40)			
29	Ruby Minor Gravel	382,000		
30	Resurfacing and Dust			
31	Palliative (HD 39)			
32	Sitka Pavement Markings (HD	99,000		
33	35)			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Sitka Towed Broom (HD 35)	710,000		
4	Talkeetna Pavement Markings	300,000		
5	and Crack Seal (HD 7-12)			
6	Tanana Minor Gravel	328,000		
7	Resurfacing and Dust			
8	Palliative (HD 6)			
9	Toksook Bay Grader (HD 38)	391,000		
10	TSAIA - Advanced Project	743,721		
11	Design and Planning (HD 1-			
12	40)			
13	TSAIA - Airfield Pavement	29,084,751		
14	Reconstruction &			
15	Maintenance (HD 1-40)			
16	TSAIA - Annual Improvements	939,437		
17	(HD 1-40)			
18	TSAIA - Environmental	130,477		
19	Projects (HD 1-40)			
20	TSAIA - Equipment (HD 1-40)	4,251,286		
21	TSAIA - Facility	1,435,251		
22	Improvements, Renovations,			
23	& Upgrades (HD 1-40)			
24	TSAIA - Information	1,252,582		
25	Technology Improvements (HD			
26	1-40)			
27	TSAIA - North Terminal	20,000,000		
28	Improvements (HD 1-40)			
29	TSAIA - Parking Garage	10,000,000		
30	Repairs and Improvements			
31	(HD 1-40)			
32	TSAIA - Passenger Boarding	10,000,000		
33	Bridge Upgrades (HD 1-40)			

		Appropriation	General	Other
		Allocations	Funds	Funds
1				
2				
3	TSAIA - Quick Turnaround	4,000,000		
4	Facility Renewal (HD 1-40)			
5	TSAIA - Terminal Watermain	12,906,000		
6	Improvements (HD 1-40)			
7	TSAIA: Airport Facility	1,000,000		
8	Roof Replacement (HD 1-40)			
9	TSAIA: Airport Roadway	1,000,000		
10	Improvements (HD 1-40)			
11	TSAIA: Communications	400,000		
12	Upgrade (HD 1-40)			
13	TSAIA: Improve Airport	5,388,000		
14	Drainage (HD 1-40)			
15	TSAIA: Visual Paging System	1,800,000		
16	Installation (ADA) (HD 1-			
17	40)			
18	Unalaska Airport Ramp and	8,300,000		
19	Taxiway Repaving (HD 37)			
20	Unalaska Pavement Markings	99,000		
21	(HD 37)			
22	Valdez Pavement Markings	71,000		
23	and Crack Seal (HD 9)			
24	Wrangell Pavement Markings	191,000		
25	(HD 36)			
26	Wrangell Truck (HD 36)	355,000		
27	Yakutat Pavement Markings	284,000		
28	(HD 32)			
29	<b>Federal Program Match</b>	<b>120,100,000</b>	<b>120,100,000</b>	
30	Federal-Aid Aviation State	21,900,000		
31	Match (HD 1-40)			
32	Federal-Aid Highway State	96,900,000		
33	Match (HD 1-40)			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Other Federal Program Match	1,300,000		
4	(HD 1-40)			
5	<b>Statewide Federal Programs</b>	<b>59,800,574</b>	<b>130,574</b>	<b>59,670,000</b>
6	Cooperative Reimbursable	15,000,000		
7	Projects (HD 1-40)			
8	Federal Emergency Projects	10,000,000		
9	(HD 1-40)			
10	Federal Transit	26,670,000		
11	Administration Grants (HD			
12	1-40)			
13	Highway Safety Grants	8,130,574		
14	Program (HD 1-40)			
15	<b>Surface Transportation Program</b>	<b>868,509,954</b>		<b>868,509,954</b>
16	511 Phone and Web	90,970		
17	Enhancements (HD 33-34)			
18	511 Phone and Web	785,071		
19	Maintenance & Operations			
20	(HD 33-34)			
21	AASHTOWare Implementation	1,482,811		
22	(HD 33-34)			
23	ADA Implementation and	161,927		
24	Compliance Monitoring (HD			
25	33-34)			
26	Air Quality Mobile Source	181,940		
27	Modeling (HD 33-34)			
28	Air Quality Public	181,940		
29	Education (HD 33-34)			
30	Airport Way / South Cushman	10,712,254		
31	Intersection Reconstruction			
32	(HD 1-5)			
33	Akakeek, Ptarmigan, and	272,910		



		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	DeLapp Streets (HD 38)			
4	Alaska CARE - Crash Data	54,582		
5	Analysis & Reporting System			
6	(HD 33-34)			
7	Alaska Highway Passing	11,000,000		
8	Lanes (Tetlin-Delta Jct)			
9	(HD 9)			
10	Alaska Highway System (AHS)	4,500,000		
11	(HD 1-40)			
12	American Association of	200,134		
13	State Highway			
14	Transportation Officials			
15	(AASHTO) Technical Programs			
16	Support (HD 1-40)			
17	Anchorage Metropolitan Area	28,153,418		
18	Transportation Solutions			
19	(AMATS) Community			
20	Transportation Program			
21	(CTP) Allocation (HD 12-28)			
22	Anchorage Metropolitan Area	2,143,768		
23	Transportation Solutions			
24	(AMATS) Congestion			
25	Mitigation Allocation for			
26	Qualifying Air Quality			
27	Projects (HD 12-28)			
28	Anchorage Metropolitan Area	836,594		
29	Transportation Solutions			
30	(AMATS) Transportation			
31	Alternatives (TA)			
32	Allocation (HD 12-28)			
33	Annual Planning Work	8,560,553		

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Program (HD 33-34)			
4	Bethel Chief Eddie Hoffman	1,819,400		
5	Highway Rehabilitation (HD			
6	38)			
7	Bridge and Tunnel	7,627,900		
8	Inventory, Inspection,			
9	Monitoring, Preservation,			
10	Rehab and Replacement			
11	Program (HD 1-40)			
12	Bridge Management System	454,850		
13	(HD 1-40)			
14	Bridge Scour Monitoring and	864,215		
15	Retrofit Program (HD 1-40)			
16	Carbon Reduction Program	15,700,000		
17	(HD 1-40)			
18	Central Region ADA	2,274,250		
19	Compliance Project (HD 1-			
20	40)			
21	Central Region Intelligent	682,275		
22	Transportation Systems			
23	(ITS) Repair and Upgrade			
24	Project (HD 1-40)			
25	City of Fairbanks 5th	454,850		
26	Avenue Sidewalk			
27	Improvements (HD 1)			
28	Civil Rights Program (HD 1-	240,000		
29	40)			
30	Committed Measures for the	1,728,430		
31	Fairbanks State			
32	Implementation Plan (SIP)			
33	(HD 1-5)			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Community Transportation	25,000,000		
4	Program (CTP) (HD 1-40)			
5	Connected and Autonomous	22,743		
6	Vehicle Planning (HD 33-34)			
7	Cultural Resources Liaison	154,649		
8	(HD 33-34)			
9	Dalton Highway Mile Point	33,658,900		
10	0-10 (Milepost 0-9)			
11	Reconstruction (Livengood			
12	to 9 Mile Hill) -			
13	Construction (HD 6)			
14	Dalton Highway Mile Point	26,836,150		
15	120-136 (Milepost 120-135)			
16	Reconstruction (Pung Creek			
17	to Prospect Creek) -			
18	Construction (HD 40)			
19	Dalton Hwy Mile Point 109-	9,097		
20	145 (Milepost 109-144)			
21	Reconstruction (Old Man			
22	Camp to Jim River Bridge#3)			
23	(HD 1-40)			
24	Design Construct Lease	640,000		
25	Purchase Ferryboats and			
26	Terminals (HD 33-34)			
27	Elliott Highway Milepost	27,291,000		
28	51-63 Rehabilitation (HD 6)			
29	Enhanced Mobility for	318,400		
30	Seniors and Individuals			
31	With Disabilities (HD 33-			
32	34)			
33	eWORX Federal Aid System	90,970		

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Regulatory Implementation			
4	(HD 33-34)			
5	Fairbanks Air Quality	72,776		
6	Planning Project (HD 1-5)			
7	Fairbanks Area Surface	7,716,256		
8	Transportation (FAST)			
9	Community Transportation			
10	Program (CTP) Allocation			
11	(HD 1-5)			
12	Fairbanks Area Surface	727,760		
13	Transportation (FAST)			
14	Congestion Mitigation and			
15	Air Quality Improvement			
16	(CMAQ) Allocation (HD 1-5)			
17	Federally-Supported Local	1,000,000		
18	Assistance & Grants (FLAG)			
19	Program (HD 1-40)			
20	Ferry Boat Funds (HD 1-40)	10,000,000		
21	Ferry Refurbishment (HD 33-	15,351,188		
22	34)			
23	Fleet Condition Survey	400,000		
24	Update (HD 33-34)			
25	Geographic Information	227,425		
26	System Development (HD 1-			
27	40)			
28	Glenn Highway Airport	485,485		
29	Heights to Parks Highway			
30	Rehabilitation (HD 17)			
31	Glenn Highway Hiland Road	670,000		
32	Interchange and Artillery			
33	Road Interchange			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Preservation - Design (HD			
4	12-28)			
5	Glenn Highway Incident	1,300,000		
6	Management Traffic			
7	Accommodations (HD 12-28)			
8	Glenn Highway Mile Point	2,274,250		
9	59-85 (Milepost 66.5 to 92)			
10	Rehabilitation - Design			
11	Highway Contingency (HD 1-	25,166,328		
12	40)			
13	Highway Fuel Tax Evasion	90,970		
14	(HD 1-40)			
15	Highway Infrastructure	45,000,000		
16	Program (HIP) Bridge			
17	Formula Program (HD 1-40)			
18	Highway Performance	136,455		
19	Monitoring System (HPMS)			
20	Reporting (HD 1-40)			
21	Highway Safety Improvement	55,600,000		
22	Program (HSIP) (HD 1-40)			
23	Highway Safety Improvement	607,500		
24	Program/Safety Management -			
25	Central Region (HD 12-28)			
26	Highway Safety Improvement	324,000		
27	Program/Safety Management -			
28	Northern Region (HD 1-40)			
29	Highway Safety Improvement	250,058		
30	Program/Safety Management -			
31	Southcoast Region (HD 1-40)			
32	Ice Roads & Seasonal Trails	2,000,000		
33	Maintenance Program (HD 1-			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	40)			
4	Inter-Island Ferry	430,953		
5	Authority (IFA) Vessel			
6	Refurbishments (HD 33-36)			
7	Kodiak - Otmeloi Way	4,716,155		
8	Reconstruction (HD 32)			
9	National Electric Vehicle	7,758,240		
10	Infrastructure (NEVI) (HD			
11	1-40)			
12	National Highway Institute	318,395		
13	Training (HD 1-40)			
14	Nome Center Creek Road	11,337,591		
15	Rehabilitation (HD 39)			
16	Nome Front Street	363,880		
17	Resurfacing (HD 39)			
18	Northern Region ADA	1,591,975		
19	Reconnaissance and			
20	Improvements (HD 1-40)			
21	Northern Region Signal	4,548,500		
22	Interconnect (HD 1-40)			
23	Office of History and	241,071		
24	Archaeology (OHA) Alaska			
25	Heritage Resources Survey/			
26	Integrated Business System			
27	(AHRIS/IBS) Development (HD			
28	1-40)			
29	Parks Highway Mile Point	7,823,420		
30	63-128 (Milepost 99 to 163)			
31	Drainage and Culvert			
32	Improvements (HD 10)			
33	Parks Highway Mile Post	560,400		

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	206-209 Reconstruction -			
4	Design (HD 6)			
5	Pavement and Bridge	50,943,200		
6	Preservation - Central			
7	Region (HD 1-40)			
8	Pavement and Bridge	51,852,900		
9	Preservation - Northern			
10	Region (HD 1-40)			
11	Pavement and Bridge	13,190,650		
12	Preservation - Southcoast			
13	Region (HD 1-40)			
14	Portage Station	1,770,000		
15	Improvements (HD 28)			
16	Promoting Resilient	17,900,000		
17	Operations for			
18	Transformative, Efficient,			
19	and Cost-Saving			
20	Transportation (PROTECT)			
21	(HD 1-40)			
22	Recreational Trails Program	2,261,379		
23	(HD 1-40)			
24	Redoubt Avenue and Smith	400,000		
25	Way Rehabilitation (HD 12-			
26	28)			
27	Richardson Highway Bear	409,365		
28	Creek Bridge #0593			
29	Replacement (HD 9)			
30	Richardson Highway Mile	22,742,500		
31	Point 131-141 (Milepost			
32	128-138) Rehabilitation			
33	(Stage 2 of 3) (HD 6)			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Richardson Highway Mile	27,291,000		
4	Point 169-176 (Milepost 167			
5	- 173) Reconstruction (HD			
6	9)			
7	Richardson Highway Mile	272,910		
8	Point 68-84 (Milepost 65-			
9	80) Rehabilitation (HD 9)			
10	Richardson Highway Passing	30,000,000		
11	Lanes (Delta Junction to			
12	Eielson AFB) (HD 9)			
13	Road Weather Information	727,440		
14	System (RWIS) (HD 1-40)			
15	Road Weather Information	90,970		
16	System (RWIS) Air Quality			
17	Sensor Operations &			
18	Maintenance (HD 1-5)			
19	Roadway Data Collection (HD	1,091,640		
20	1-40)			
21	Seismic Bridge Retrofit	864,215		
22	Program (HD 1-40)			
23	Seward Highway Mile Point	1,819,400		
24	14 Railroad Crossing			
25	Reconstruction (HD 12-28)			
26	Seward Highway Mile Point	38,389,340		
27	24-36 (Milepost 25-36)			
28	Rehabilitation Moose Pass			
29	to Sterling Wye (HD 29-31)			
30	Shoreside Facilities	240,000		
31	Condition Survey (HD 1-40)			
32	Small Hydrologic	90,972		
33	Investigations (HD 1-40)			



		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Southcoast Areawide ADA	18,359		
4	Improvements (HD 1-40)			
5	Southcoast Region	136,395		
6	Intelligent Transportation			
7	Systems (ITS) Repair and			
8	Upgrade Project (HD 1-40)			
9	Statewide Congestion and	3,211,241		
10	Mitigation Air Quality (HD			
11	1-40)			
12	Statewide Functional Class	136,455		
13	Update (HD 1-40)			
14	Statewide Highway Data	909,700		
15	Equipment Acquisition and			
16	Installation (HD 1-40)			
17	Statewide Highway Safety	482,141		
18	Improvement Program Safety			
19	Management (HD 1-40)			
20	Statewide Research Program	3,132,180		
21	(HD 1-40)			
22	Statewide Transportation	454,850		
23	Alternatives Program (TAP)			
24	(HD 1-40)			
25	Steese Highway Mile Point	192,856		
26	122-123 (Milepost 128)			
27	Crooked Creek Bridge			
28	Replacement (HD 6)			
29	Sterling Highway Mile Point	80,963,300		
30	8-25 (Milepost 45-60)			
31	Sunrise Inn to Skilak Lake			
32	Rd JNU Creek Bridge Con (HD			
33	29-31)			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Sterling Safety Corridor	63,588,000		
4	Improvements, MP 45-58 (HD			
5	29-31)			
6	Strategic Highway Safety	90,970		
7	Plan (HD 1-40)			
8	Traffic Data Management and	113,713		
9	Reporting System (HD 1-40)			
10	Transportation Alternatives	3,500,000		
11	Program (TAP) (HD 1-40)			
12	Transportation Asset	1,819,400		
13	Management Program (HD 1-			
14	40)			
15	Traveler Information	22,743		
16	Systems Marketing (HD 1-40)			
17	University Avenue Widening	6,549,840		
18	(HD 1-5)			
19	Urban Planning Program (HD	2,916,448		
20	1-40)			
21	US Geological Survey (USGS)	591,305		
22	Flood Frequency and			
23	Analysis (HD 1-40)			
24	Vine Road Improvements	7,732,450		
25	Knik-Goosebay Road to			
26	Hollywood Blvd (HD 7-12)			
27	Weigh-In-Motion Maintenance	454,850		
28	& Operations (HD 1-40)			
29	Whittier Tunnel:	4,093,650		
30	Maintenance and Operations			
31	(HD 7-12)			
32	Winter Trail Marking (HD 1-	773,245		
33	40)			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
		* * * * *		
		* * * * *		
		* * * * * <b>University of Alaska</b> * * * * *		
		* * * * *		
		* * * * *		
6	Seward Marine Center Research Vessel	94,400,000		94,400,000
7	Infrastructure (HD 29-31)			
8		* * * * *		
9		* * * * * <b>Judiciary</b> * * * * *		
10		* * * * *		
11	Deferred Maintenance Projects (DOT /	3,820,000	3,820,000	
12	DOA / DMVA Maintained) (HD 1-40)			
13	Court Security Projects (HD 1-40)	4,130,000	4,130,000	
14	Justice Technology Upgrades and	3,917,300	3,917,300	
15	Courtroom Modernization (HD 1-40)			
16	Planning and Design for Court	980,000	980,000	
17	Facilities - Bethel and Palmer (HD 38)			
18	(SECTION 12 OF THIS ACT BEGINS ON THE NEXT PAGE)			

\* **Sec. 12.** The following sets out the funding by agency for the appropriations made in sec. 11 of this Act.

Funding Source	Amount
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**Department of Commerce, Community and Economic Development**

1002	Federal Receipts	45,516,123
1003	General Fund Match	5,565,000
1004	Unrestricted General Fund Receipts	46,130,075
1018	Exxon Valdez Oil Spill Trust--Civil	16,117,135
1169	Power Cost Equalization Endowment Fund Earnings	10,000,000
1210	Renewable Energy Grant Fund	15,000,000
1243	Statutory Budget Reserve Fund	150,300,000
***	Total Agency Funding ***	288,628,333

**Department of Education and Early Development**

1004	Unrestricted General Fund Receipts	100,000,000
***	Total Agency Funding ***	100,000,000

**Department of Environmental Conservation**

1002	Federal Receipts	102,934,800
1003	General Fund Match	19,500,000
1018	Exxon Valdez Oil Spill Trust--Civil	658,432
1075	Alaska Clean Water Fund	11,231,759
1100	Alaska Drinking Water Fund	24,336,818
1108	Statutory Designated Program Receipts	500,000
1265	COVID-19 Federal	650,000
***	Total Agency Funding ***	159,811,809

**Department of Fish and Game**

1002	Federal Receipts	19,300,000
1004	Unrestricted General Fund Receipts	5,150,000
1018	Exxon Valdez Oil Spill Trust--Civil	8,097,616
1024	Fish and Game Fund	750,000
1108	Statutory Designated Program Receipts	250,000
***	Total Agency Funding ***	33,547,616

1	<b>Office of the Governor</b>	
2	1004 Unrestricted General Fund Receipts	26,120,000
3	1197 Alaska Capital Income Fund	23,880,000
4	*** Total Agency Funding ***	50,000,000
5	<b>Health</b>	
6	1002 Federal Receipts	23,700,000
7	1003 General Fund Match	500,000
8	1004 Unrestricted General Fund Receipts	13,920,000
9	*** Total Agency Funding ***	38,120,000
10	<b>Department of Military and Veterans Affairs</b>	
11	1002 Federal Receipts	23,164,000
12	1003 General Fund Match	240,400
13	*** Total Agency Funding ***	23,404,400
14	<b>Department of Natural Resources</b>	
15	1002 Federal Receipts	35,623,000
16	1003 General Fund Match	6,300,000
17	1004 Unrestricted General Fund Receipts	7,788,000
18	1018 Exxon Valdez Oil Spill Trust--Civil	4,329,567
19	1108 Statutory Designated Program Receipts	250,000
20	1153 State Land Disposal Income Fund	500,000
21	1195 Snow Machine Registration Receipts	250,000
22	*** Total Agency Funding ***	55,040,567
23	<b>Department of Public Safety</b>	
24	1002 Federal Receipts	1,200,000
25	1004 Unrestricted General Fund Receipts	2,550,000
26	*** Total Agency Funding ***	3,750,000
27	<b>Department of Revenue</b>	
28	1002 Federal Receipts	39,586,814
29	1004 Unrestricted General Fund Receipts	20,000,000
30	1108 Statutory Designated Program Receipts	500,000
31	1139 Alaska Housing Finance Corporation Dividend	10,400,000

1	*** Total Agency Funding ***	70,486,814
2	<b>Department of Transportation and Public Facilities</b>	
3	1002 Federal Receipts	1,365,180,514
4	1003 General Fund Match	120,100,000
5	1004 Unrestricted General Fund Receipts	30,130,574
6	1026 Highways Equipment Working Capital Fund	30,000,000
7	1027 International Airports Revenue Fund	29,417,309
8	1076 Alaska Marine Highway System Fund	20,000,000
9	1108 Statutory Designated Program Receipts	10,000,000
10	1112 International Airports Construction Fund	743,721
11	*** Total Agency Funding ***	1,605,572,118
12	<b>University of Alaska</b>	
13	1002 Federal Receipts	94,400,000
14	*** Total Agency Funding ***	94,400,000
15	<b>Judiciary</b>	
16	1004 Unrestricted General Fund Receipts	9,027,300
17	1197 Alaska Capital Income Fund	3,820,000
18	*** Total Agency Funding ***	12,847,300
19	<b>* * * * * Total Budget * * * * *</b>	<b>2,535,608,957</b>
20	(SECTION 13 OF THIS ACT BEGINS ON THE NEXT PAGE)	

\* **Sec. 13.** The following sets out the statewide funding for the appropriations made in sec. 11 of this Act.

Funding Source	Amount
<b>Unrestricted General</b>	
1003 General Fund Match	152,205,400
1004 Unrestricted General Fund Receipts	260,815,949
1139 Alaska Housing Finance Corporation Dividend	10,400,000
1243 Statutory Budget Reserve Fund	150,300,000
*** Total Unrestricted General ***	573,721,349
<b>Designated General</b>	
1076 Alaska Marine Highway System Fund	20,000,000
1153 State Land Disposal Income Fund	500,000
1169 Power Cost Equalization Endowment Fund Earnings	10,000,000
1195 Snow Machine Registration Receipts	250,000
1197 Alaska Capital Income Fund	27,700,000
1210 Renewable Energy Grant Fund	15,000,000
*** Total Designated General ***	73,450,000
<b>Other Non-Duplicated</b>	
1018 Exxon Valdez Oil Spill Trust--Civil	29,202,750
1024 Fish and Game Fund	750,000
1027 International Airports Revenue Fund	29,417,309
1108 Statutory Designated Program Receipts	11,500,000
*** Total Other Non-Duplicated ***	70,870,059
<b>Federal Receipts</b>	
1002 Federal Receipts	1,750,605,251
1265 COVID-19 Federal	650,000
*** Total Federal Receipts ***	1,751,255,251
<b>Other Duplicated</b>	
1026 Highways Equipment Working Capital Fund	30,000,000
1075 Alaska Clean Water Fund	11,231,759
1100 Alaska Drinking Water Fund	24,336,818

1	1112 International Airports Construction Fund	743,721
2	*** Total Other Duplicated ***	66,312,298
3	(SECTION 14 OF THIS ACT BEGINS ON THE NEXT PAGE)	



\* **Sec. 14.** The following appropriation items are for capital projects and grants from the general fund or other funds as set out in section 15 of this Act by funding source to the agencies named for the purposes expressed and lapse under AS 37.25.020, unless otherwise noted.

	Appropriation	General	Other
Allocations	Items	Funds	Funds
*****	*****		
***** <b>Department of Administration</b> *****			
*****	*****		
Alaska Rural Communications Service	1,630,000	500,000	1,130,000
(ARCS) FCC License Surrenders and			
Renewals Update (HD 1-40)			
Azure Adoption to Assist with Cloud	23,116,000	23,116,000	
Migration (HD 1-40)			
Microsoft Security Upgrade (HD 1-40)	1,149,000	1,149,000	
*****	*****		
***** <b>Department of Commerce, Community and Economic Development</b> *****			
*****	*****		
Alaska Energy Authority - Electrical	1,500,000	1,500,000	
Vehicle Infrastructure Plan (HD 1-40)			
Clean Hydrogen Research, Development	4,250,000	250,000	4,000,000
and Demonstration Opportunities (HD 1-			
40)			
Grid Modernization, Reliability,	250,000	250,000	
Resiliency and Transmission Projects			
(HD 1-40)			
IIJA Section 40601 - Alaska Oil and	32,341,000		32,341,000
Gas Conservation Commission - Orphaned			
Well Site Plugging, Remediation, and			
Restoration (HD 1-40)			
<b>Grants to Named Recipients (AS</b>			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
3	<b>37.05.316)</b>			
4	Ahtna- Eagle Trail Spill Cleanup (HD	382,843	382,843	
5	1-40)			
6	Alaska Community Foundation- Alaska	5,000,000	5,000,000	
7	Housing Trust (HD 1-40)			
8	Alaska Huts Association - Glacier	690,000	690,000	
9	Discovery Hut-to-Hut System, Phase 1 -			
10	Alaska Long Trail (HD 29)			
11	Alaska Farmers Market Association -	500,000	500,000	
12	SNAP/WIC/Senior Coupon Doubling			
13	Programs at Alaska (HD 1-40)			
14	Alaska Federation of Natives -	2,500,000	2,500,000	
15	Infrastructure Navigator Program (HD			
16	1-40)			
17	Alaska Municipal League Grant	1,500,000	1,500,000	
18	Preparation and Technical Assistance			
19	(HD 1-40)			
20	Alaska Primary Care Association-	2,950,000	2,950,000	
21	Alaska's Healthcare Workforce Pipeline			
22	Project (HD 1-40)			
23	Alaska Travel Industry Association (HD	5,000,000	5,000,000	
24	1-40)			
25	Anchorage Park Foundation - Alaska	300,000	300,000	
26	Long Trail Anchorage to Mat-Su			
27	Reconnaissance Study (HD 12-28)			
28	Anchorage Park Foundation - Alaska	800,000	800,000	
29	Long Trail Urban Braid -- Anchorage			
30	Moose Loop (HD 12-28)			
31	Anchorage Water and Wastewater Utility	1,000,000	1,000,000	
32	- Hillcrest Subdivision Clean Water			
33	Improvement Assessment Offset (HD 23)			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Bering Sea Fishermen's Association -	513,150	513,150	
4	Improve Stock of Origin Analysis of			
5	Western Alaska Salmon (HD 37)			
6	Bering Sea Fishermen's Association -	310,000	310,000	
7	Integrating Genetic and Environmental			
8	Data for Predictive Models of Salmon			
9	Bycatch (HD 37)			
10	Bering Sea Fishermen's Association -	100,000	100,000	
11	Review Current Draft Comprehensive			
12	Salmon Plan (HD 6)			
13	Bering Sea Fishermen's Association -	1,180,561	1,180,561	
14	Yukon River Watershed Monitoring (HD			
15	39)			
16	Blood Bank of Alaska - High-Complexity	2,000,000	2,000,000	
17	Reference Laboratory (HD 1-40)			
18	Bristol Bay Science Research Institute	3,750,000	3,750,000	
19	- Nushagak Salmon Stock Assessment (HD			
20	37)			
21	Food Bank of Alaska - Infrastructure	10,000,000	10,000,000	
22	for Alaska's Statewide Food Bank			
23	Network (HD 1-40)			
24	Girdwood Fire & Rescue, Inc. -	312,750	312,750	
25	Emergency Extrication Equipment			
26	Clearinghouse (HD 28)			
27	Kuskokwim River Inter-Tribal Fish	140,000	140,000	
28	Commission - Community-Based Harvest			
29	Monitoring Network for Kuskokwim River			
30	Chinook Salmon (HD 38)			
31	Kuskokwim River Inter-Tribal Fish	88,000	88,000	
32	Commission - Salmon Stock Assessment			
33	using Environmental DNA (HD 38)			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Kuskokwim River Inter-Tribal Fish	170,000	170,000	
4	Commission - Tatlawiksuk River Salmon			
5	Assessment Project (HD 38)			
6	Lower Kuskokwim School District -	614,000	614,000	
7	Kwethluk School Power Resilience (HD			
8	38)			
9	Mat-Su Trails and Parks Foundation -	100,000	100,000	
10	Susitna Valley Winter-Only Motorized			
11	Multi-Use Trail - Alaska Long Trail			
12	(HD 8)			
13	Moore Street Seniors, Inc. -	351,103	351,103	
14	Affordable Senior Housing Exterior			
15	Renovation (HD 1)			
16	Moore Street Seniors, Inc. - Replace	27,000	27,000	
17	Manual Doors with Automatic Doors (HD			
18	1)			
19	Presbyterian Hospitality House -	500,000	500,000	
20	Expand Clinical and Program			
21	Administrative Space (HD 2)			
22	Prince William Sound Science Center &	5,950,000		5,950,000
23	Technology Institute Facilities			
24	Replacement and Associated Debt (HD			
25	32)			
26	Providence Alaska Medical Center -	8,000,000	8,000,000	
27	Crisis Stabilization Center (HD 12-28)			
28	Sealaska Heritage Institute - Alaska	340,000	340,000	
29	Native Arts Economy and Workforce			
30	Training Programming (HD 33-36)			
31	Seawolf Hockey Alliance Inc. -	87,000	87,000	
32	Scoreboard Replacement (HD 12-28)			
33	United Way of Anchorage - Restaurant	500,000	500,000	

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	and Hunger Relief Program (HD 20)			
4	Volunteers of America - Alaska -	960,000	960,000	
5	School-Based Mental Health Services			
6	(HD 12-28)			
7	<b>Grants to Municipalities (AS</b>			
8	<b>37.05.315)</b>			
9	Anchorage - Chanshtnu Muldoon Park	500,000	500,000	
10	Phase II Development (HD 12-28)			
11	Anchorage - Glacier Creek Bridge -	1,200,000	1,200,000	
12	Replacement for Hand Tram - Alaska			
13	Long Trail (HD 12-28)			
14	Anchorage - Northeast Areawide	500,000	500,000	
15	Pedestrian Safety and Traffic Calming			
16	(HD 12-28)			
17	Anchorage - Northern Lights Sound	1,100,000	1,100,000	
18	Barrier Fence Phase III and Median			
19	Landscaping (HD 12-28)			
20	Anchorage - Russian Jack Area School	500,000	500,000	
21	Pedestrian and Safety Upgrades (HD 12-			
22	28)			
23	Anchorage - Starner Street Bridge	1,500,000	1,500,000	
24	Replacement (HD 12)			
25	City of Cordova - South Harbor Rebuild	3,000,000	3,000,000	
26	(HD 32)			
27	City of Palmer Wastewater Treatment	6,900,000	6,900,000	
28	Plant Improvements - Phase II (HD 7-			
29	12)			
30	Emmonak - Emmonak Port Phase II - Ramp	9,400,000	9,400,000	
31	(HD 39)			
32	Fairbanks North Star Borough - Equinox	1,450,000	1,450,000	
33	Marathon Trail -- Parks Highway to			

	Appropriation	General	Other
	Allocations	Funds	Funds
1 Fairbanks via Ester Dome - Alaska Long			
2 Trail (HD 1-5)			
3 Fairbanks North Star Borough - Isberg	990,000	990,000	
4 4-Season Trail - Alaska Long Trail (HD			
5 1-5)			
6 Fairbanks North Star Borough - Oil To	1,250,000	1,250,000	
7 Gas Conversion Assistance (HD 1-5)			
8 Haines Borough - Haines Borough Lutak	3,211,284	3,211,284	
9 Dock Restoration (HD 33)			
10 Homer - New Large Vessel Harbor:	750,000	750,000	
11 Matching Funds for Army Corps of			
12 Engineers General Investigation (HD			
13 31)			
14 Juneau - North State Office Building	5,000,000	5,000,000	
15 Parking (HD 33)			
16 Kodiak- Kodiak Fire Station (HD 32)	15,000,000	15,000,000	
17 Matanuska-Susitna Borough - Palmer Hay	100,000	100,000	
18 Flats Trail - Alaska Long Trail (HD			
19 11)			
20 Matanuska-Susitna Borough - GPRA	1,900,000	1,900,000	
21 Traverse and Little Susitna Loop -			
22 Alaska Long Trail (HD 11)			
23 Northwest Arctic Borough- Public	1,500,000	1,500,000	
24 Safety and Facilities (HD 40)			
25	* * * * *	* * * * *	
26	* * * * *		
27	* * * * *		
28	* * * * *		
29	* * * * *		
30 Hiland Mountain Intake Administration	3,200,000	3,200,000	
31 Project (HD 14)			
32 Statewide Backup Power System	350,000	350,000	
33 Evaluation and Upgrade Program (HD 1-			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	40)			
4	Yukon Kuskokwim Correctional Center	2,350,000	2,350,000	
5	Recreational Area Renovations (HD 38)			
6	Suicide Prevention Barriers (HD 1-40)	750,000	750,000	
7	* * * * *	* * * * *		
8	<b>* * * * * Department of Education and Early Development * * * * *</b>			
9	* * * * *	* * * * *		
10	Mt. Edgecumbe High School Repairs (HD	6,163,000	6,163,000	
11	35)			
12	Start-up and Expansion of School	600,000	600,000	
13	Breakfast Programs (HD 1-40)			
14	<b>School Construction Grant Fund (AS</b>	<b>54,895,500</b>		<b>54,895,500</b>
15	<b>14.11.005)</b>			
16	William N. Miller K-12	54,895,500		
17	Memorial School			
18	Replacement, Napakiak (HD			
19	38)			
20	* * * * *	* * * * *		
21	<b>* * * * * Department of Environmental Conservation * * * * *</b>			
22	* * * * *	* * * * *		
23	SPAR Database Upgrade - Functionality	1,300,000	1,300,000	
24	Upgrades and Modernization of PLANS			
25	and SPILLS Database (HD 1-40)			
26	Statewide Contaminated Sites Cleanup	1,000,000	1,000,000	
27	(HD 1-40)			
28	* * * * *	* * * * *		
29	<b>* * * * * Department of Fish and Game * * * * *</b>			
30	* * * * *	* * * * *		
31	Statewide Wildlife Game Surveys (HD 1-	16,000,000		16,000,000
32	40)			
33	Stock Identification of Salmon	2,000,000	2,000,000	

	Appropriation	General	Other
	Allocations	Funds	Funds
1			
2			
3	Harvested in South Peninsula Fisheries		
4	(HD 1-40)		
5	Wildlife Management and Research (HD	8,000,000	8,000,000
6	1-40)		
7	* * * * *	* * * * *	
8	* * * * * Office of the Governor * * * * *		
9	* * * * *	* * * * *	
10	Elections Security Under the Help	1,250,000	1,250,000
11	America Vote Act (HD 1-40)		
12	<b>Coronavirus Capital Project Fund</b>		
13	Alutiiq Tribe of Old Harbor -	4,454,968	4,454,968
14	Construction of Nuniaq Community		
15	Center (HD 32)		
16	Anchorage Library Foundation -	2,500,000	2,500,000
17	Anchorage Downtown Library (HD 20)		
18	Association of Village Council	10,445,000	10,445,000
19	Presidents - Multi-Purpose Community		
20	Facility Projects (HD 1-40)		
21	Iliuliuk Family and Health Services	20,000,000	20,000,000
22	Center (HD 37)		
23	Kawerak - Multi-Purpose Community	12,000,000	12,000,000
24	Facility Projects (HD 1-40)		
25	Mat-Su First Responder Training	8,000,000	8,000,000
26	Facility (HD 7-12)		
27	Nenana Health and Wellness Complex (HD	24,000,000	24,000,000
28	6)		
29	Petersburg Medical and Public Health	20,000,000	20,000,000
30	Center (HD 35)		
31	Rampart Broadband (HD 6)	9,000,000	9,000,000
32	Spruce Island Development Corporation	1,400,000	1,400,000
33	- Ouzinkie Community Internet Cafe (HD		



		Appropriation	General	Other
		Allocations	Funds	Funds
32)				
	*****	*****		
	***** Department of Labor and Workforce Development *****			
	*****	*****		
Alaska Workforce Investment Board -		2,000,000	2,000,000	
Alaska's Cross Industry Skills				
Employment and Training Project (HD 1-				
40)				
	*****	*****		
	***** Health and Social Services *****			
	*****	*****		
Office of Children's Services Lease		1,000,000	640,000	360,000
Expansion or Relocation (HD 7-12)				
Information Technology Security		1,900,000	1,900,000	
Program Assessment (HD 1-40)				
	*****	*****		
	***** Department of Military and Veterans Affairs *****			
	*****	*****		
Alaska Military Youth Academy (AMYA)		750,000	150,000	600,000
Construction, Contingency, and				
Planning (HD 15)				
Construction of a Certified Veterans		3,270,000	2,270,000	1,000,000
Cemetery in Fairbanks area (HD 1-5)				
	*****	*****		
	***** Department of Natural Resources *****			
	*****	*****		
Agriculture 3 Phase Electrical Service		3,000,000	3,000,000	
Infrastructure (HD 6)				
Arctic to Indian Phase 1 Trail		20,000	20,000	
improvements - Alaska Long Trail (HD				
14)				

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Carbon Technology Infrastructure	250,000	250,000	
4	Research Development and Demonstration			
5	Opportunities (HD 1-40)			
6	Crow Pass - Eagle River - Alaska Long	1,500,000	1,500,000	
7	Trail (HD 14)			
8	Eagle River Salmon Viewing Deck	200,000		200,000
9	Replacement (HD 14)			
10	Food Security Agriculture Incentive	3,000,000	3,000,000	
11	Grant Program (HD 1-40)			
12	LIDAR Collection and Mapping	1,088,529		1,088,529
13	Modernization Exxon-Valdez Oil Spill			
14	(EVOS) Region (HD 1-40)			
15	National Historic Preservation Fund	200,000	200,000	
16	(HD 1-40)			
17	Nenana to Fairbanks Multi-Use Trails,	1,600,000	1,600,000	
18	Tanana Valley State Forest - Alaska			
19	Long Trail (HD 6)			
20	Nenana-Totchaket Agriculture	5,000,000	5,000,000	
21	Development (HD 6)			
22	Peters Creek Upper Trail & Bridge -	30,000	30,000	
23	Alaska Long Trail (HD 14)			
24	Plant Materials Center Seed Processing	2,000,000	2,000,000	
25	and Storage Capacity Improvements (HD			
26	1-40)			
27	Turnagain Arm Trail Maintenance and	370,000	370,000	
28	Extension - Alaska Long Trail (HD 28)			
29	* * * * *	* * * * *		
30	* * * * * <b>Department of Public Safety</b> * * * * *			
31	* * * * *	* * * * *		
32	Aircraft Purchase and Replacement (HD	6,000,000	6,000,000	
33	1-40)			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
	<b>Allocations</b>	<b>Items</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	AST Unmanned Aerial System (HD 1-40)	450,000	450,000	
4	Body Worn Camera Initiative (HD 1-40)	4,524,300	3,586,300	938,000
5	Mobile and Handheld Radio Replacement	3,728,300	3,728,300	
6	(HD 1-40)			
7	VPSO Law Enforcement Program Support	2,980,000	2,980,000	
8	(HD 1-40)			
9	* * * * *	* * * * *		
10	<b>* * * * * Department of Transportation and Public Facilities * * * * *</b>			
11	* * * * *	* * * * *		
12	Carlo Creek to Crabbies Crossing	3,700,000	3,700,000	
13	Separated Path - Alaska Long Trail (HD			
14	6)			
15	Tudor Road and Patterson Street	6,000,000	6,000,000	
16	Construction of Signalized			
17	Intersection (HD 27)			
18	<b>Airport Improvement Program</b>	<b>73,400,000</b>		<b>73,400,000</b>
19	AIAS - State Match (HD 12-	3,400,000		
20	28)			
21	Cordova Airport Rescue and	19,400,000		
22	Fire Fighting Building			
23	Replacement (HD 32)			
24	Homer Airport Improvements	14,200,000		
25	- Stage 2 (HD 31)			
26	Hoonah Seaplane Base	500,000		
27	Dredging & Creek Relocation			
28	(HD 35)			
29	Ketchikan Seaplane Ramp	2,500,000		
30	Replacement (HD 36)			
31	Sitka Airport Terminal	7,000,000		
32	Building Modifications (HD			
33	35)			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	TSAIA - Taxiway Zulu East	26,400,000		
4	(HD 1-40)			
5	<b>Municipal Harbor Facility Grant Fund</b>			
6	<b>(AS 29.60.800)</b>			
7	Harbor Matching Grant Fund (HD 1-40)	20,019,180	20,019,180	
8	<b>Federal Program Match</b>	<b>19,800,000</b>	<b>19,800,000</b>	
9	Federal-Aid Highway State	19,800,000		
10	Match (HD 1-40)			
11	<b>Surface Transportation Program</b>	<b>185,114,787</b>		<b>185,114,787</b>
12	Alaska Highway System -	5,000,000		
13	State of Good Repair			
14	Projects - Designs (HD 1-			
15	40)			
16	Carbon Reduction Program	15,700,000		
17	(HD 1-40)			
18	Ferry Boat Funds (HD 1-40)	10,000,000		
19	Glenn Highway Arctic Avenue	750,000		
20	to Palmer-Fishhook Road			
21	Safety and Capacity			
22	Improvements (HD 12-28)			
23	Glenn Highway Hiland Road	450,000		
24	Interchange and Artillery			
25	Road Interchange			
26	Preservation (HD 12-28)			
27	Glenn Highway Incident	1,100,000		
28	Management Traffic			
29	Accommodations (HD 12-28)			
30	Glenn Highway Mile Point	850,000		
31	158-172 Rehabilitation (HD			
32	12-28)			
33	Haines Highway	8,406,708		

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Reconstruction, Mile Point			
4	3.5-25.3 (HD 33)			
5	Highway Infrastructure	45,000,000		
6	Programs (HIP) Bridge			
7	Formula Program (HD 1-40)			
8	Ice Roads & Seasonal Roads	2,000,000		
9	Maintenance Program (HD 1-			
10	40)			
11	Juneau Downtown National	1,200,000		
12	Highway System (NHS)			
13	Corridor (HD 33)			
14	Ketchikan Sayles/Gorge St.	817,330		
15	Viaduct Improvement (HD 33-			
16	36)			
17	National Electric Vehicle	7,758,240		
18	Infrastructure (NEVI) (HD			
19	1-40)			
20	National Highway System	18,000,000		
21	State of Good Repair			
22	Projects - Designs (HD 1-			
23	40)			
24	Nome Center Creek Road	1,209,901		
25	Rehabilitation (HD 39)			
26	Parks Highway Mile Point	11,007,370		
27	63-128 (Milepost 99 to 163)			
28	Drainage and Culvert			
29	Improvements (HD 10)			
30	Promoting Resilient	17,900,000		
31	Operations for			
32	Transformative, Efficient,			
33	and Cost-Saving			

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
1				
2				
3	Transportation (PROTECT)			
4	(HD 1-40)			
5	Rock Slope Stabilization	3,000,000		
6	(HD 36)			
7	Seward Highway and Alyeska	4,798,688		
8	Highway Intersection			
9	Improvements (HD 12-28)			
10	Seward Highway and Sterling	5,458,000		
11	Highway Intersection			
12	Improvements (HD 12-28)			
13	Seward Highway and Tudor	3,000,000		
14	Road Interchange			
15	Reconstruction (HD 12-28)			
16	Seward Highway Mile Point	864,550		
17	14 Railroad Crossing			
18	Reconstruction (HD 12-28)			
19	Seward Highway Mile Point	18,194,000		
20	98.5-118 Bird Flats to			
21	Rabbit Creek Reconstruction			
22	(HD 12-28)			
23	Steese Expressway Mile	400,000		
24	Point 2-5 Rehabilitation			
25	(HD 1-5)			
26	Tok Cutoff Mile Point 0-8	350,000		
27	Rehabilitation (HD 6)			
28	Tok Cutoff Mile Point 76-91	950,000		
29	Rehabilitation (HD 6)			
30	Tok Cutoff Mile Point 8-22	950,000		
31	Rehabilitation (HD 6)			
32		* * * * *	* * * * *	
33		* * * * *	University of Alaska	* * * * *

		<b>Appropriation</b>	<b>General</b>	<b>Other</b>
		<b>Allocations</b>	<b>Funds</b>	<b>Funds</b>
		<b>Items</b>		
		<b>*****</b>		
1				
2				
3				
4	Emerging Energy Opportunities for	2,500,000	2,500,000	
5	Alaska (HD 1-40)			
6	Rare Earth Elements Demonstration	500,000	500,000	
7	Facility (HD 1-40)			
8	Mineral Security Projects: Rare Earth	250,000	250,000	
9	Mineral Security (HD 1-40)			
10	Student Information Technology Systems	20,000,000	20,000,000	
11	(HD 1-40)			
12	Maritime Works (HD 1-40)	2,000,000	2,000,000	
13	<b>Deferred Maintenance</b>			
14	University of Alaska Deferred	50,000,000	50,000,000	
15	Maintenance (HD 1-40)			
16	(SECTION 15 OF THIS ACT BEGINS ON THE NEXT PAGE)			

\* **Sec. 15.** The following sets out the funding by agency for the appropriations made in sec. 14 of this Act.

Funding Source	Amount
<b>Department of Administration</b>	
1002 Federal Receipts	1,130,000
1004 Unrestricted General Fund Receipts	24,765,000
*** Total Agency Funding ***	25,895,000
<b>Department of Commerce, Community and Economic Development</b>	
1002 Federal Receipts	36,341,000
1004 Unrestricted General Fund Receipts	108,417,691
1018 Exxon Valdez Oil Spill Trust--Civil	5,950,000
*** Total Agency Funding ***	150,708,691
<b>Department of Corrections</b>	
1004 Unrestricted General Fund Receipts	6,650,000
*** Total Agency Funding ***	6,650,000
<b>Department of Education and Early Development</b>	
1004 Unrestricted General Fund Receipts	6,763,000
1222 REAA and Small Municipal School District School Fund	54,895,500
*** Total Agency Funding ***	61,658,500
<b>Department of Environmental Conservation</b>	
1004 Unrestricted General Fund Receipts	2,300,000
*** Total Agency Funding ***	2,300,000
<b>Department of Fish and Game</b>	
1002 Federal Receipts	18,000,000
1004 Unrestricted General Fund Receipts	2,000,000
1024 Fish and Game Fund	6,000,000
*** Total Agency Funding ***	26,000,000
<b>Office of the Governor</b>	
1002 Federal Receipts	111,799,968
1185 Election Fund	1,250,000
*** Total Agency Funding ***	113,049,968



1	<b>Department of Labor and Workforce Development</b>	
2	1004 Unrestricted General Fund Receipts	2,000,000
3	*** Total Agency Funding ***	2,000,000
4	<b>Health and Social Services</b>	
5	1002 Federal Receipts	360,000
6	1004 Unrestricted General Fund Receipts	2,540,000
7	*** Total Agency Funding ***	2,900,000
8	<b>Department of Military and Veterans Affairs</b>	
9	1002 Federal Receipts	1,600,000
10	1003 General Fund Match	150,000
11	1004 Unrestricted General Fund Receipts	2,270,000
12	*** Total Agency Funding ***	4,020,000
13	<b>Department of Natural Resources</b>	
14	1003 General Fund Match	200,000
15	1004 Unrestricted General Fund Receipts	16,770,000
16	1018 Exxon Valdez Oil Spill Trust--Civil	1,088,529
17	1108 Statutory Designated Program Receipts	200,000
18	*** Total Agency Funding ***	18,258,529
19	<b>Department of Public Safety</b>	
20	1002 Federal Receipts	938,000
21	1003 General Fund Match	939,200
22	1004 Unrestricted General Fund Receipts	15,805,400
23	*** Total Agency Funding ***	17,682,600
24	<b>Department of Transportation and Public Facilities</b>	
25	1002 Federal Receipts	255,114,787
26	1003 General Fund Match	19,800,000
27	1004 Unrestricted General Fund Receipts	29,719,180
28	1027 International Airports Revenue Fund	3,400,000
29	*** Total Agency Funding ***	308,033,967
30	<b>University of Alaska</b>	
31	1004 Unrestricted General Fund Receipts	75,250,000

1	*** Total Agency Funding ***	75,250,000
2	* * * * * <b>Total Budget</b> * * * * *	<b>814,407,255</b>
3	(SECTION 16 OF THIS ACT BEGINS ON THE NEXT PAGE)	

\* **Sec. 16.** The following sets out the statewide funding for the appropriations made in sec. 14 of this Act.

Funding Source	Amount
<b>Unrestricted General</b>	
1003 General Fund Match	21,089,200
1004 Unrestricted General Fund Receipts	295,250,271
*** Total Unrestricted General ***	316,339,471
<b>Other Non-Duplicated</b>	
1018 Exxon Valdez Oil Spill Trust--Civil	7,038,529
1024 Fish and Game Fund	6,000,000
1027 International Airports Revenue Fund	3,400,000
1108 Statutory Designated Program Receipts	200,000
*** Total Other Non-Duplicated ***	16,638,529
<b>Federal Receipts</b>	
1002 Federal Receipts	425,283,755
*** Total Federal Receipts ***	425,283,755
<b>Other Duplicated</b>	
1185 Election Fund	1,250,000
1222 REAA and Small Municipal School District School Fund	54,895,500
*** Total Other Duplicated ***	56,145,500

(SECTION 17 OF THIS ACT BEGINS ON THE NEXT PAGE)

1     \* **Sec. 17.** SUPPLEMENTAL ALASKA COURT SYSTEM. The sum of \$1,783,000 is  
2 appropriated from the general fund to the Alaska Court System for the purpose of addressing  
3 trial backlog for the fiscal years ending June 30, 2022, and June 30, 2023.

4     \* **Sec. 18.** SUPPLEMENTAL ALASKA PERMANENT FUND. (a) The amount necessary,  
5 when added to the appropriation made by sec. 24(a), ch. 1, SSSLA 2017, to satisfy the deposit  
6 described under AS 37.13.010(a)(2) during the fiscal year ending June 30, 2018, plus interest,  
7 estimated to be \$99,800,000, is appropriated from the general fund to the principal of the  
8 Alaska permanent fund.

9         (b) The amount necessary, when added to the appropriation made by sec. 9(a), ch. 17,  
10 SLA 2018, to satisfy the deposit described under AS 37.13.010(a)(2) during the fiscal year  
11 ending June 30, 2019, estimated to be \$99,200,000, is appropriated from the general fund to  
12 the principal of the Alaska permanent fund.

13     \* **Sec. 19.** SUPPLEMENTAL BONUSES FOR CERTAIN EMPLOYEES OF THE  
14 EXECUTIVE BRANCH. (a) The money appropriated in this Act includes amounts to  
15 implement the payment of bonuses and other monetary terms of letters of agreements entered  
16 into between the state and collective bargaining units under AS 23.40.070 - 23.40.260 for the  
17 fiscal years ending June 30, 2022, and June 30, 2023.

18         (b) The Department of Administration, division of personnel and labor relations, shall

19                 (1) not later than 30 days after the Department of Administration enters into a  
20 letter of agreement described in (a) of this section, provide a copy of the letter of agreement to  
21 the legislative finance division in electronic form; and

22                 (2) submit a report to the co-chairs of the finance committee of each house of  
23 the legislature and the legislative finance division on

24                         (A) December 20, 2022, that summarizes all payments made under the  
25 letters of agreements described in (a) of this section during the fiscal year ending  
26 June 30, 2022; and

27                         (B) March 15, 2023, that summarizes all payments made under the  
28 letters of agreements described in (a) of this section during the first half of the fiscal  
29 year ending June 30, 2023.

30     \* **Sec. 20.** SUPPLEMENTAL DEBT AND OTHER OBLIGATIONS. (a) The amount  
31 necessary, after the appropriations made in sec. 68(I), ch. 1, SSSLA 2021, estimated to be

1 \$48,594,460, is appropriated from the general fund to the Department of Education and Early  
2 Development for state aid for costs of school construction under AS 14.11.100 for the fiscal  
3 year ending June 30, 2022.

4 (b) The amount necessary for the fiscal year ending June 30, 2021, estimated to be  
5 \$100,154,200, is appropriated from the general fund to the Department of Education and  
6 Early Development for state aid for costs of school construction under AS 14.11.100.

7 (c) The amount necessary for the fiscal year ending June 30, 2020, after the  
8 appropriations made in sec. 31(n), ch. 1, FSSLA 2019, estimated to be \$47,987,000, is  
9 appropriated from the general fund to the Department of Education and Early Development  
10 for state aid for costs of school construction under AS 14.11.100.

11 (d) The amount necessary for the fiscal year ending June 30, 2017, after the  
12 appropriations made in sec. 24(k), ch. 3, 4SSLA 2016, estimated to be \$24,104,000, is  
13 appropriated from the general fund to the Department of Education and Early Development  
14 for state aid for costs of school construction under AS 14.11.100.

15 \* **Sec. 21. SUPPLEMENTAL DEPARTMENT OF ADMINISTRATION.** (a) Section 10(c),  
16 ch. 38, SLA 2015, as amended by sec. 17(a), ch. 2, 4SSLA 2016, sec. 12, ch. 1, SSSLA 2017,  
17 sec. 10, ch. 19, SLA 2018, and sec. 8, ch. 1, FSSLA 2019, is amended to read:

18 (c) The sum of \$792,000 is appropriated from the general fund to the  
19 Department of Administration, labor relations, for costs related to labor contract  
20 negotiations and arbitration support for the fiscal years ending June 30, 2015, June 30,  
21 2016, June 30, 2017, June 30, 2018, June 30, 2019, June 30, 2020, June 30, 2021,  
22 [AND] June 30, 2022, **June 30, 2023, June 30, 2024, and June 30, 2025.**

23 (b) The sum of \$1,700,000 is appropriated from the general fund to the Department of  
24 Administration for security monitoring services for the fiscal years ending June 30, 2022,  
25 June 30, 2023, and June 30, 2024.

26 (c) Section 56(e), ch. 1, SSSLA 2021, is amended to read:

27 (e) The amount necessary to have an unobligated balance **equal to the**  
28 **amount of the cap set in AS 37.05.289(b)** [OF \$5,000,000] in the state insurance  
29 catastrophe reserve account (AS 37.05.289(a)), after the appropriations made in (b) -  
30 (d) of this section, is appropriated from the unencumbered balance of any  
31 appropriation that is determined to be available for lapse at the end of the fiscal year

1 ending June 30, 2022, to the state insurance catastrophe reserve account  
2 (AS 37.05.289(a)).

3 \* **Sec. 22.** SUPPLEMENTAL DEPARTMENT OF COMMERCE, COMMUNITY, AND  
4 ECONOMIC DEVELOPMENT. (a) The sum of \$1,000,000 is appropriated from program  
5 receipts collected under AS 21 by the Department of Commerce, Community, and Economic  
6 Development, division of insurance, to the Department of Commerce, Community, and  
7 Economic Development for actuarial support costs for the fiscal years ending June 30, 2022,  
8 and June 30, 2023.

9 (b) The sum of \$7,100,000 is appropriated from the general fund to the Department of  
10 Commerce, Community, and Economic Development for community assistance payments to  
11 eligible recipients under the community assistance program for the fiscal year ending June 30,  
12 2022.

13 (c) The amount of the fees collected under AS 28.10.421(d) during the fiscal years  
14 ending June 30, 2022, and June 30, 2023, for the issuance of National Rifle Association  
15 license plates, less the cost of issuing the license plates, estimated to be \$18,708, is  
16 appropriated from the general fund to the Department of Commerce, Community, and  
17 Economic Development for payment as a grant under AS 37.05.316 to the Alaska SCTP,  
18 nonprofit corporation, for maintenance of scholastic clay target programs and other youth  
19 shooting programs, including travel budgets to compete in national collegiate competitions,  
20 for the fiscal years ending June 30, 2022, and June 30, 2023.

21 \* **Sec. 23.** SUPPLEMENTAL DEPARTMENT OF HEALTH AND SOCIAL SERVICES.  
22 (a) The amount of federal receipts received from the Coronavirus Aid, Relief, and Economic  
23 Security Act (P.L. 116-136) during the fiscal year ending June 30, 2020, and awarded to  
24 grantees in the fiscal year ending June 30, 2021, estimated to be \$7,419,161, is appropriated  
25 to the Department of Health and Social Services to cover grantee expenses incurred under the  
26 grant agreement in the fiscal year ending June 30, 2022.

27 (b) Section 60(d), ch. 1, SSSLA 2021, is amended to read:

28 (d) The sum of **\$40,000,000** [\$20,000,000] is appropriated from federal  
29 receipts received from sec. 9901, P.L. 117-2 (Subtitle M—Coronavirus State and  
30 Local Fiscal Recovery Funds, American Rescue Plan Act of 2021) to the Department  
31 of Health and Social Services, division of public health, emergency programs, for

1        responding to public health matters arising from COVID-19 for the fiscal years  
2        [YEAR] ending June 30, 2022, June 30, 2023, June 30, 2024, and June 30, 2025.

3        \* **Sec. 24.** SUPPLEMENTAL DEPARTMENT OF LAW. The sum of \$8,753,596 is  
4        appropriated from the general fund to the Department of Law, civil division, deputy attorney  
5        general's office, for the purpose of paying judgments and settlements against the state for the  
6        fiscal year ending June 30, 2022.

7        \* **Sec. 25.** SUPPLEMENTAL DEPARTMENT OF TRANSPORTATION AND PUBLIC  
8        FACILITIES. (a) Section 64(e), ch. 1, SSSLA 2021, is amended to read:

9                (e) The sum of \$33,327,800 [\$31,374,100] is appropriated from federal  
10        receipts received from the Federal Highway Administration as a result of the  
11        Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (P.L. 116-  
12        260) to the Department of Transportation and Public Facilities, Alaska marine  
13        highway system, for the fiscal years ending June 30, 2022, and June 30, 2023, for the  
14        following purposes and in the following amounts:

PURPOSE	AMOUNT
Marine engineering	\$ 2,267,600
Marine shore operations	37,300
Marine vessel operations	<u>30,985,300</u> [29,031,600]
Reservations and marketing	18,500
Vessel operations management	19,100

21        (b) Section 64(k), ch. 1, SSSLA 2021, is amended to read:

22                (k) The sum of \$59,046,300 [\$61,000,000] is appropriated from the general  
23        fund to the Department of Transportation and Public Facilities, Alaska marine  
24        highway system, for the fiscal years ending June 30, 2022, [AND] June 30, 2023, and  
25        June 30, 2024, for the following purposes and in the following amounts:

PURPOSE	AMOUNT
Marine engineering	\$ 127,400
Marine shore operations	337,400
Marine vessel fuel	7,796,300
Marine vessel operations	<u>50,498,600</u> [52,452,300]
Reservations and marketing	113,500

Vessel operations management 173,100

\* **Sec. 26.** SUPPLEMENTAL OFFICE OF THE GOVERNOR. (a) The sum of \$4,300,000 is appropriated from the general fund to the Office of the Governor, division of elections, for costs associated with voter outreach, language assistance, election security, and election worker wages for the fiscal years ending June 30, 2022, and June 30, 2023.

(b) The sum of \$2,500,000 is appropriated from the general fund to the Office of the Governor, division of elections, for costs associated with the special election for the Alaska seat in the United States House of Representatives for the fiscal years ending June 30, 2022, and June 30, 2023.

\* **Sec. 27.** SUPPLEMENTAL FUND CAPITALIZATION. (a) The sum of \$31,800,000 is appropriated from the general fund to the community assistance fund (AS 29.60.850).

(b) The amount calculated under AS 14.11.025(b) for the fiscal year ending June 30, 2022, after the appropriation made in sec. 70(k), ch. 1, SSSLA 2021, estimated to be \$17,119,000, is appropriated from the general fund to the regional educational attendance area and small municipal school district school fund (AS 14.11.030(a)).

(c) The amount calculated under AS 14.11.025(b) for the fiscal year ending June 30, 2021, estimated to be \$36,739,000, is appropriated from the general fund to the regional educational attendance area and small municipal school district school fund (AS 14.11.030(a)).

(d) The amount calculated under AS 14.11.025(b) for the fiscal year ending June 30, 2020, after the appropriation made in sec. 33(k), ch. 1, FSSLA 2019, estimated to be \$19,694,500, is appropriated from the general fund to the regional educational attendance area and small municipal school district school fund (AS 14.11.030(a)).

(e) The amount calculated under AS 14.11.025(b) for the fiscal year ending June 30, 2017, after the appropriation made in sec. 27(f), ch. 3, 4SSLA 2016, estimated to be \$10,410,000, is appropriated from the general fund to the regional educational attendance area and small municipal school district school fund (AS 14.11.030(a)).

(f) The sum of \$60,000,000 is appropriated from the general fund to the oil and gas tax credit fund (AS 43.55.028).

(g) The sum of \$50,000,000 is appropriated from the general fund to the disaster relief fund (AS 26.23.300(a)).



(h) The sum of \$1,200,000 is appropriated to the election fund, as required by the federal Help America Vote Act of 2002, from the following sources:

(1) \$200,000 from the general fund;

(2) \$1,000,000 from federal receipts.

\* **Sec. 28.** SUPPLEMENTAL FUND TRANSFERS. (a) The sum of \$300,000,000 is appropriated from federal receipts received from sec. 9901, P.L. 117-2 (Subtitle M—Coronavirus State and Local Fiscal Recovery Funds, American Rescue Plan Act of 2021) to the general fund for general fund revenue replacement.

(b) The sum of \$394,600,000 is appropriated from the general fund to the Alaska higher education investment fund (AS 37.14.750).

(c) The sum of \$18,477,900 is appropriated from the general fund to the Alaska marine highway system vessel replacement fund (AS 37.05.550).

\* **Sec. 29.** SUPPLEMENTAL SALARY AND BENEFIT ADJUSTMENTS. Section 74(a), ch. 1, SSSLA 2021, is amended to read:

(a) The operating budget appropriations made in secs. 1 and 64(d) and (f), **ch. 1, SSSLA 2021** [OF THIS ACT] include amounts for salary and benefit adjustments for public officials, officers, and employees of the executive branch, Alaska Court System employees, employees of the legislature, and legislators and to implement the monetary terms for the fiscal year ending June 30, 2022, of the following ongoing collective bargaining agreements:

(1) Alaska State Employees Association, for the general government unit;

(2) Teachers' Education Association of Mt. Edgecumbe, representing the teachers of Mt. Edgecumbe High School;

(3) Confidential Employees Association, representing the confidential unit;

(4) Public Safety Employees Association, representing the regularly commissioned public safety officers unit;

(5) Inlandboatmen's Union of the Pacific, Alaska Region, representing the unlicensed marine unit;

(6) Alaska Vocational Technical Center Teachers' Association,

1 National Education Association, representing the employees of the Alaska Vocational  
2 Technical Center;

3 (7) Alaska Correctional Officers Association, representing the  
4 correctional officers unit;

5 (8) Alaska Public Employees Association, for the supervisory unit;

6 **(9) Marine Engineers' Beneficial Association, representing licensed**  
7 **engineers employed by the Alaska marine highway system.**

8 \* **Sec. 30.** SUPPLEMENTAL STATUTORY BUDGET RESERVE FUND. (a) The sum of  
9 \$660,000,000 is appropriated from the general fund to the budget reserve fund  
10 (AS 37.05.540(a)).

11 (b) The unobligated and unrestricted balance of the general fund on June 30, 2022, is  
12 appropriated from the general fund to the budget reserve fund (AS 37.05.540(a)).

13 \* **Sec. 31.** EXXON VALDEZ OIL SPILL RESTORATION FUND: CAPITAL. (a) The  
14 legislature finds that

15 (1) as a result of the judgment entered by the United States District Court for  
16 Alaska in the criminal case United States of America v. Exxon Shipping Company and Exxon  
17 Corporation, No. A90-015 CR, the state received \$50,000,000 in restitution "to be used by the  
18 State of Alaska . . . exclusively for restoration projects, within the State of Alaska, relating to  
19 the 'Exxon Valdez' oil spill";

20 (2) the money received by the state in restitution is held in the Exxon Valdez  
21 oil spill restoration fund, established by the Department of Revenue to implement the  
22 judgment; and

23 (3) the appropriation in (b) of this section is made in order to achieve the  
24 purposes set out in the court's restitution order described in (a)(1) of this section.

25 (b) The unexpended and unobligated balance of income accrued on or before June 30,  
26 2022, estimated to be \$200,000, in the fund described in (a)(2) of this section is appropriated  
27 to the Department of Commerce, Community, and Economic Development for payment as a  
28 grant under AS 37.05.316 to the Prince William Sound Science Center for the planning,  
29 construction, and maintenance of a facility to be used for research related to the restoration of  
30 natural resources and services injured as a result of the Exxon Valdez oil spill and related  
31 restoration research.

1     \* **Sec. 32.** INSURANCE CLAIMS: CAPITAL. The amounts to be received in settlement of  
2 insurance claims for losses and the amounts to be received as recovery for losses are  
3 appropriated from the general fund to the

4             (1) state insurance catastrophe reserve account (AS 37.05.289(a)); or

5             (2) appropriate state agency to mitigate the loss.

6     \* **Sec. 33.** NATIONAL PETROLEUM RESERVE - ALASKA IMPACT GRANT  
7 PROGRAM: CAPITAL. The amount received by the National Petroleum Reserve - Alaska  
8 special revenue fund (AS 37.05.530(a)) under 42 U.S.C. 6506a(*l*) or former 42 U.S.C. 6508  
9 by June 30, 2022, estimated to be \$13,800,000, is appropriated from that fund to the  
10 Department of Commerce, Community, and Economic Development for capital project grants  
11 under the National Petroleum Reserve - Alaska impact grant program.

12     \* **Sec. 34.** DEPARTMENT OF ADMINISTRATION: CAPITAL. The sum of \$250,000 is  
13 appropriated from the general fund to the Department of Administration, division of finance,  
14 for the creation of a centralized website that contains unaudited and estimated statewide  
15 financial information and related expenses, including the procurement of software, server  
16 capacity, design expertise, and contractor assistance with design, programming, and reporting.

17     \* **Sec. 35.** DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC  
18 DEVELOPMENT: CAPITAL. (a) The amount of interest earned on funds from the 2016  
19 Volkswagen Settlement environmental mitigation trust, estimated to be \$400,000, is  
20 appropriated to the Department of Commerce, Community, and Economic Development,  
21 Alaska Energy Authority, for activities related to the Volkswagen Settlement.

22             (b) The sum of \$100,000,000 is appropriated from the budget reserve fund  
23 (AS 37.05.540(a)) to the Department of Commerce, Community, and Economic Development  
24 for payment as a grant under AS 37.05.315 to the Municipality of Anchorage for the Port of  
25 Alaska modernization project, to be distributed as follows:

26                 (1) \$25,000,000 for the fiscal year ending June 30, 2023; and

27                 (2) \$75,000,000 for the fiscal year ending June 30, 2024.

28             (c) The Municipality of Anchorage shall, not later than February 1, 2023, submit a  
29 report on the Port of Alaska modernization project to the co-chairs of the finance committees  
30 of each house of the legislature and the legislative finance division. The report must include a  
31 financial plan for the Port of Alaska modernization project.

1 (d) The unexpended and unobligated balance, not to exceed \$3,633,158 of the  
2 estimated balance of \$4,395,564, of the appropriation made in sec. 78(c), ch. 1, SSSLA 2002,  
3 as amended by sec. 69, ch. 29, SLA 2008, and sec. 7(b), ch. 5, SLA 2012 (Department of  
4 Commerce, Community, and Economic Development, Alaska Energy Authority, upgrade and  
5 extend the Anchorage to Fairbanks power transmission intertie to the Teeland substation), is  
6 reappropriated to the Department of Commerce, Community, and Economic Development,  
7 Alaska Energy Authority, for statewide grid resilience and reliability for the fiscal years  
8 ending June 30, 2023, and June 30, 2024.

9 (e) The sum of \$750,000 is appropriated to the Department of Commerce,  
10 Community, and Economic Development, Alcohol and Marijuana Control Office, for the  
11 licensing and enforcement solutions project, from the following sources:

12 (1) \$375,000 from the general fund;

13 (2) \$375,000 from general fund program receipts for the licensing and  
14 application fees related to the regulation of alcohol.

15 \* **Sec. 36.** DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT:  
16 CAPITAL. The unexpended and unobligated balance, after the appropriations made in secs.  
17 41 and 52(a) of this Act, not to exceed \$95,000 of the total estimated balance of \$705,300, of  
18 the appropriation made in sec. 1, ch. 18, SLA 2014, page 9, lines 9 - 11 (Angoon, existing  
19 community sewer system and outfall line replacement - \$709,500), is reappropriated to the  
20 Department of Education and Early Development for Mount Edgecumbe High School  
21 bleachers and swimming and water survival education equipment.

22 \* **Sec. 37.** DEPARTMENT OF FAMILY AND COMMUNITY SERVICES: CAPITAL. (a)  
23 The unexpended and unobligated balances of the following appropriations are reappropriated  
24 to the Department of Family and Community Services for the purposes stated below:

25 (1) sec. 5(c), ch. 10, SLA 2007, as amended by secs. 12(b) and 30(a) - (c), ch.  
26 38, SLA 2015, and sec. 21(j)(3), ch. 1, TSSLA 2017 (Department of Health and Social  
27 Services, Fairbanks virology laboratory completion), for completion of the Fairbanks virology  
28 laboratory;

29 (2) sec. 1, ch. 5, FSSLA 2011, page 2, lines 13 - 14, as amended by sec. 16(a),  
30 ch. 1, TSSLA 2017 (Department of Health and Social Services, deferred maintenance,  
31 renovation, repair, and equipment for Alaska Pioneers' Homes), for deferred maintenance,

1 renovation, repair, and equipment for Alaska Pioneers' Homes;

2 (3) sec. 1, ch. 17, SLA 2012, page 119, lines 14 - 16, and allocated on page  
3 119, lines 23 - 25 (Department of Health and Social Services, deferred maintenance, renewal,  
4 repair and equipment, pioneer homes, Juneau Pioneer Home deferred maintenance -  
5 \$2,210,830), for deferred maintenance at the Juneau Pioneer Home;

6 (4) sec. 1, ch. 16, SLA 2013, page 2, lines 18 - 20, as amended by sec. 16(a),  
7 ch. 1, TSSLA 2017 (Department of Health and Social Services, deferred maintenance,  
8 renovation, repair, and equipment for Alaska Pioneers' Homes), for deferred maintenance,  
9 renovation, repair, and equipment for Alaska Pioneers' Homes;

10 (5) sec. 1, ch. 16, SLA 2013, page 66, lines 27 - 29, and allocated on page 67,  
11 lines 9 - 11 (Department of Health and Social Services, non-pioneer home deferred  
12 maintenance, renovation, repair and equipment, Fairbanks Youth Facility deferred  
13 maintenance - \$33,700), for deferred maintenance at the Fairbanks Youth Facility;

14 (6) sec. 1, ch. 16, SLA 2013, page 66, lines 27 - 29, and allocated on page 67,  
15 lines 24 - 26 (Department of Health and Social Services, non-pioneer home deferred  
16 maintenance, renovation, repair and equipment, McLaughlin Youth Center deferred  
17 maintenance - \$1,249,300), for deferred maintenance at the McLaughlin Youth Center;

18 (7) sec. 1, ch. 16, SLA 2013, page 66, lines 27 - 29, and allocated on page 67,  
19 lines 27 - 29 (Department of Health and Social Services, non-pioneer home deferred  
20 maintenance, renovation, repair and equipment, Nome Youth Facility deferred maintenance -  
21 \$189,800), for deferred maintenance at the Nome Youth Facility;

22 (8) sec. 1, ch. 16, SLA 2013, page 67, line 33, through page 68, line 4, and  
23 allocated on page 68, lines 20 - 22 (Department of Health and Social Services, pioneer homes  
24 deferred maintenance, renovation, repair and equipment, Sitka Pioneer Home deferred  
25 maintenance - \$974,200), for deferred maintenance at the Sitka Pioneer Home;

26 (9) sec. 1, ch. 18, SLA 2014, page 50, lines 25 - 27, as amended by sec. 16(a),  
27 ch. 1, TSSLA 2017 (Department of Health and Social Services, deferred maintenance,  
28 renovation, repair, and equipment for Alaska Pioneers' Homes), for deferred maintenance,  
29 renovation, repair, and equipment for Alaska Pioneers' Homes;

30 (10) sec. 1, ch. 18, SLA 2014, page 53, lines 30 - 32 (Department of Health  
31 and Social Services, Office of Children Services safety enhancements to offices, facilities and

1 equipment - \$94,800), for safety enhancements to offices, facilities, and equipment for the  
2 office of children's services;

3 (11) sec. 1, ch. 18, SLA 2014, page 54, lines 5 - 6, and allocated on page 54,  
4 lines 10 - 12 (Department of Health and Social Services, non-pioneer home deferred  
5 maintenance, renovation, repair and equipment, Fairbanks Youth Facility deferred  
6 maintenance - \$344,610), for deferred maintenance at the Fairbanks Youth Facility;

7 (12) sec. 1, ch. 18, SLA 2014, page 54, lines 5 - 6, and allocated on page 54,  
8 lines 22 - 24 (Department of Health and Social Services, non-pioneer home deferred  
9 maintenance, renovation, repair and equipment, McLaughlin Youth Center deferred  
10 maintenance - \$1,013,654), for deferred maintenance at the McLaughlin Youth Center;

11 (13) sec. 1, ch. 18, SLA 2014, page 54, lines 5 - 6, and allocated on page 54,  
12 lines 25 - 27 (Department of Health and Social Services, non-pioneer home deferred  
13 maintenance, renovation, repair and equipment, Nome Youth Facility deferred maintenance -  
14 \$726,354), for deferred maintenance at the Nome Youth Facility;

15 (14) sec. 1, ch. 18, SLA 2014, page 54, lines 28 - 29, and allocated on page  
16 54, lines 30 - 32 (Department of Health and Social Services, pioneer homes deferred  
17 maintenance, renovation, repair and equipment, Alaska Veterans and Pioneer Home deferred  
18 maintenance - \$294,412), for deferred maintenance at the Alaska Veterans and Pioneers  
19 Home;

20 (15) sec. 1, ch. 18, SLA 2014, page 54, lines 28 - 29, and allocated on page  
21 55, lines 5 - 7 (Department of Health and Social Services, pioneer homes deferred  
22 maintenance, renovation, repair and equipment, Fairbanks Pioneer Home deferred  
23 maintenance - \$709,754), for deferred maintenance at the Fairbanks Pioneer Home;

24 (16) sec. 1, ch. 18, SLA 2014, page 54, lines 28 - 29, and allocated on page  
25 55, lines 8 - 10 (Department of Health and Social Services, pioneer homes deferred  
26 maintenance, renovation, repair and equipment, Juneau Pioneer Home deferred maintenance -  
27 \$277,140), for deferred maintenance at the Juneau Pioneer Home;

28 (17) sec. 1, ch. 18, SLA 2014, page 54, lines 28 - 29, and allocated on page  
29 55, lines 11 - 13 (Department of Health and Social Services, pioneer homes deferred  
30 maintenance, renovation, repair and equipment, Ketchikan Pioneer Home deferred  
31 maintenance - \$2,214,685), for deferred maintenance at the Ketchikan Pioneer Home;

1 (18) sec. 1, ch. 2, 4SSLA 2016, page 4, lines 30 - 32 (Department of Health  
2 and Social Services, non-pioneer home deferred maintenance, renovation, repair and  
3 equipment - \$1,416,845), for non-pioneer home deferred maintenance, renovation, repair, and  
4 equipment;

5 (19) sec. 1, ch. 2, 4SSLA 2016, page 5, lines 4 - 6 (Department of Health and  
6 Social Services, pioneer homes deferred maintenance, renovation, repair and equipment -  
7 \$1,417,500), for pioneer homes deferred maintenance, renovation, repair, and equipment;

8 (20) sec. 1, ch. 19, SLA 2018, page 7, lines 8 - 9 (Department of Health and  
9 Social Services, Office of Children's Services safety and support enhancements - \$1,239,352),  
10 for safety and support enhancements for the office of children's services;

11 (21) sec. 1, ch. 19, SLA 2018, page 7, lines 10 - 11 (Department of Health and  
12 Social Services, pioneer homes renovations and repair - \$1,000,000), for renovations and  
13 repair to pioneer homes;

14 (22) sec. 5, ch. 8, SLA 2020, page 65, lines 23 - 25 (Department of Health and  
15 Social Services, Alaska Psychiatric Institute projects to comply with corrective action plan -  
16 \$1,619,264), for Alaska Psychiatric Institute projects to comply with the corrective action  
17 plan;

18 (23) sec. 5, ch. 8, SLA 2020, page 65, lines 26 - 27 (Department of Health and  
19 Social Services, Anchorage Pioneer Home renovation - \$2,080,000), for renovation at the  
20 Anchorage Pioneer Home;

21 (24) sec. 8, ch. 1, SSSLA 2021, page 73, line 15, and allocated on page 73,  
22 lines 16 - 18 (Department of Health and Social Services, pioneer homes facility  
23 improvements, Ketchikan Pioneer Home HVAC intake damper assembly - \$76,500), for  
24 HVAC intake damper assembly at the Ketchikan Pioneer Home;

25 (25) sec. 8, ch. 1, SSSLA 2021, page 73, line 15, and allocated on page 73,  
26 lines 19 - 20 (Department of Health and Social Services, pioneer homes facility  
27 improvements, Palmer Alaska Veterans' and Pioneers Home roof replacement - \$5,518,000),  
28 for replacement of the roof at the Palmer Alaska Veterans and Pioneers Home;

29 (26) sec. 8, ch. 1, SSSLA 2021, page 73, line 15, and allocated on page 73,  
30 lines 21 - 23 (Department of Health and Social Services, pioneer homes facility  
31 improvements, Palmer Alaska Veterans and Pioneer Home safety fencing - \$61,200), for

1 safety fencing at the Palmer Alaska Veterans and Pioneers Home;

2 (27) sec. 8, ch. 1. SSSLA 2021, page 73, line 15, and allocated on page 73,  
3 lines 24 - 26 (Department of Health and Social Services, pioneer homes facility  
4 improvements, Juneau Pioneer Home ADA-compliant courtyard - \$424,000), for an ADA-  
5 compliant courtyard at the Juneau Pioneer Home.

6 (b) The unexpended and unobligated balance, estimated to be \$7,794, of the  
7 appropriation made in sec. 1, ch. 18, SLA 2014, page 54, lines 5 - 6, and allocated on page 54,  
8 lines 13 - 15 (Department of Health and Social Services, non-pioneer home deferred  
9 maintenance, renovation, repair and equipment, Johnson Youth Center deferred maintenance -  
10 \$532,188), is reappropriated to the Department of Family and Community Services for  
11 deferred maintenance at the Alaska Pioneer Homes.

12 (c) The unexpended and unobligated balance, estimated to be \$195,851, of the  
13 appropriation made in sec. 1, ch. 2, 4SSLA 2016, page 4, lines 28 - 29 (Department of Health  
14 and Social Services, health information exchange providers incentive program - \$4,080,000),  
15 is reappropriated to the Department of Family and Community Services for deferred  
16 maintenance at the Alaska Pioneer Homes.

17 \* **Sec. 38.** DEPARTMENT OF FISH AND GAME: CAPITAL. (a) The proceeds from the  
18 sale of state-owned vessels and aircraft received by the Department of Fish and Game during  
19 the fiscal year ending June 30, 2022, estimated to be \$150,000, are appropriated to the  
20 Department of Fish and Game for renewal, replacement, and maintenance of vessels and  
21 aircraft.

22 (b) The proceeds from the sale of state-owned vessels and aircraft received by the  
23 Department of Fish and Game during the fiscal year ending June 30, 2023, estimated to be  
24 \$150,000, are appropriated to the Department of Fish and Game for renewal, replacement, and  
25 maintenance of vessels and aircraft.

26 \* **Sec. 39.** DEPARTMENT OF HEALTH: CAPITAL. (a) The unexpended and unobligated  
27 balances of the following appropriations are reappropriated to the Department of Health for  
28 the purposes stated below:

29 (1) sec. 4, ch. 30, SLA 2007, page 95, lines 18 - 20 (Department of Health and  
30 Social Services, Medicaid management information system completion - \$12,040,900), for  
31 Medicaid management information system completion;



1 (2) sec. 40(a), ch. 15, SLA 2009 (Department of Health and Social Services,  
2 health care services, statewide electronic health information exchange system - \$23,947,500),  
3 for a statewide electronic health information exchange system;

4 (3) sec. 40(b), ch. 15, SLA 2009 (Department of Health and Social Services,  
5 health care services, statewide electronic health information exchange system - \$2,727,500),  
6 for a statewide electronic health information exchange system;

7 (4) sec. 1, ch. 5, FSSLA 2011, page 2, lines 13 - 14, as amended by sec. 16(b),  
8 ch. 1, TSSLA 2017 (Department of Health and Social Services, deferred maintenance,  
9 renovation, repair, and equipment for facilities of the department other than Alaska Pioneers'  
10 Homes), for deferred maintenance, renovation, repair, and equipment for facilities of the  
11 department;

12 (5) sec. 1, ch. 5, FSSLA 2011, page 84, lines 28 - 30 (Department of Health  
13 and Social Services, electronic health record incentive payments - \$36,518,800), for electronic  
14 health record incentive payments;

15 (6) sec. 1, ch. 5, FSSLA 2011, page 85, lines 25 - 27, as amended by sec.  
16 21(j)(45), ch. 1, TSSLA 2017 (Department of Health and Social Services, Medicaid  
17 management information system completion), for Medicaid management information system  
18 completion;

19 (7) sec. 1, ch. 5, FSSLA 2011, page 85, lines 28 - 30 (Department of Health  
20 and Social Services, senior and disability services system upgrade - \$2,700,000), for senior  
21 and disabilities services system upgrade;

22 (8) sec. 1, ch. 17, SLA 2012, page 118, line 33, through page 119, line 4  
23 (Department of Health and Social Services, state improvements to health information gateway  
24 - \$3,641,400), for state improvements to the health information gateway;

25 (9) sec. 5, ch. 15, SLA 2013, page 12, lines 10 - 12 (Department of Health and  
26 Social Services, MH deferred maintenance and accessibility improvements - \$1,000,000), for  
27 mental health: deferred maintenance and accessibility improvements;

28 (10) sec. 1, ch. 16, SLA 2013, page 2, lines 18 - 20, as amended by sec. 16(b),  
29 ch. 1, TSSLA 2017 (Department of Health and Social Services, deferred maintenance,  
30 renovation, repair, and equipment for facilities of the department other than Alaska Pioneers'  
31 Homes), for deferred maintenance, renovation, repair, and equipment for facilities of the

1 department;

2 (11) sec. 1, ch. 16, SLA 2013, page 66, lines 4 - 6 (Department of Health and  
3 Social Services, electronic health record incentive payments - \$30,187,500), for electronic  
4 health record incentive payments;

5 (12) sec. 1, ch. 16, SLA 2013, page 66, lines 19 - 23 (Department of Health  
6 and Social Services, master client index, state interface improvements to the health  
7 information and direct secure messaging gateway - \$5,749,700), for the master client index  
8 and state interface improvements to the health information and direct secure messaging  
9 gateway;

10 (13) sec. 1, ch. 18, SLA 2014, page 50, lines 25 - 27, as amended by sec.  
11 16(b), ch. 1, TSSLA 2017 (Department of Health and Social Services, deferred maintenance,  
12 renovation, repair, and equipment for facilities of the department other than Alaska Pioneers'  
13 Homes), for deferred maintenance, renovation, repair, and equipment for facilities of the  
14 department;

15 (14) sec. 1, ch. 18, SLA 2014, page 53, lines 27 - 29, as amended by sec.  
16 34(b)(1), ch. 1, SSSLA 2021 (Department of Health and Social Services, competitive grants  
17 for chronic inebriate anti-recidivism treatment programs), for competitive grants for chronic  
18 inebriate anti-recidivism treatment programs;

19 (15) sec. 4, ch. 24, SLA 2015, page 11, lines 10 - 11, as amended by sec.  
20 34(b)(2), ch. 1, SSSLA 2021 (Department of Health and Social Services, MH home  
21 modification and upgrades to retain housing), for mental health: home modification and  
22 upgrades to retain housing;

23 (16) sec. 1, ch. 38, SLA 2015, page 5, lines 4 - 5, as amended by sec. 34(b)(3),  
24 ch. 1, SSSLA 2021 (Department of Health and Social Services, emergency medical services  
25 match for code blue project), for emergency medical services match for the code blue project;

26 (17) sec. 5, ch. 1, 4SSLA 2016, page 16, lines 10 - 11 (Department of Health  
27 and Social Services, MH essential program equipment - \$500,000), for mental health:  
28 essential program equipment;

29 (18) sec. 5, ch. 1, 4SSLA 2016, page 16, lines 12 - 13 (Department of Health  
30 and Social Services, MH home modification and upgrades to retain housing - \$1,050,000), for  
31 mental health: home modification and upgrades to retain housing;

1 (19) sec. 1, ch. 2, 4SSLA 2016, page 4, lines 26 - 27 (Department of Health  
2 and Social Services, emergency medical services match for code blue project - \$500,000), for  
3 emergency medical services match for the code blue project;

4 (20) sec. 1, ch. 2, 4SSLA 2016, page 4, line 33, through page 5, line 3  
5 (Department of Health and Social Services, Office of Civil Rights remediation completion -  
6 \$2,773,980), for remediation completion for the office of civil rights;

7 (21) sec. 23(a), ch. 2, 4SSLA 2016 (Department of Health and Social  
8 Services, capital costs related to the implementation of Medicaid reform, including  
9 modifications to the Medicaid Management Information System, grants to connect providers  
10 to the health information exchange, and the development of a health information  
11 infrastructure plan - \$10,448,000), for capital costs related to the implementation of Medicaid  
12 reform, including modifications to the Medicaid Management Information System, grants to  
13 connect providers to the health information exchange, and the development of a health  
14 information infrastructure plan;

15 (22) sec. 4, ch. 1, FSSLA 2017, page 12, lines 10 - 11 (Department of Health  
16 and Social Services, MH deferred maintenance and accessibility improvements - \$250,000),  
17 for mental health: deferred maintenance and accessibility improvements;

18 (23) sec. 4, ch. 1, FSSLA 2017, page 12, lines 12 - 13 (Department of Health  
19 and Social Services, MH home modification and upgrades to retain housing - \$1,050,000), for  
20 mental health: home modification and upgrades to retain housing;

21 (24) sec. 1, ch. 1, TSSLA 2017, page 5, lines 12 - 13 (Department of Health  
22 and Social Services, emergency medical services match for code blue project - \$500,000), for  
23 emergency medical services match for the code blue project;

24 (25) sec. 1, ch. 1, TSSLA 2017, page 5, lines 14 - 15 (Department of Health  
25 and Social Services, statewide electronic health information exchange system - \$7,628,548),  
26 for the statewide electronic health information exchange system;

27 (26) sec. 4, ch. 18, SLA 2018, page 12, lines 10 - 11 (Department of Health  
28 and Social Services, MH essential program equipment - \$500,000), for mental health:  
29 essential program equipment;

30 (27) sec. 4, ch. 18, SLA 2018, page 12, lines 12 - 13 (Department of Health  
31 and Social Services, MH home modification and upgrades to retain housing - \$1,050,000), for

1 mental health: home modification and upgrades to retain housing;

2 (28) sec. 1, ch. 19, SLA 2018, page 6, lines 9 - 10, and allocated on page 6,  
3 lines 11 - 14 (Office of the Governor, statewide information technology projects, Alaska's  
4 resource for integrated eligibility services enhancement - \$36,786,502), for Alaska's resource  
5 for integrated eligibility services enhancement;

6 (29) sec. 1, ch. 19, SLA 2018, page 6, lines 9 - 10, and allocated on page 6,  
7 lines 21 - 23 (Office of the Governor, statewide information technology projects, Medicaid  
8 Management Information System upgrade - \$4,692,000), for upgrade of the Medicaid  
9 Management Information System;

10 (30) sec. 1, ch. 19, SLA 2018, page 6, lines 9 - 10, and allocated on page 6,  
11 lines 28 - 30 (Office of the Governor, statewide information technology projects, senior and  
12 disabilities services system upgrade - \$4,712,016), for senior and disabilities services system  
13 upgrade;

14 (31) sec. 1, ch. 19, SLA 2018, page 7, lines 6 - 7 (Department of Health and  
15 Social Services, emergency medical services match for code blue project - \$500,000), for  
16 emergency medical services match for the code blue project;

17 (32) sec. 4, ch. 19, SLA 2018, page 19, lines 7 - 8 (Department of Health and  
18 Social Services, substance use disorder service expansion - \$12,000,000), for substance use  
19 disorder service expansion;

20 (33) sec. 4, ch. 2, FSSLA 2019, page 11, lines 11 - 12 (Department of Health  
21 and Social Services, MH: deferred maintenance and accessibility improvements - \$250,000),  
22 for mental health: deferred maintenance and accessibility improvements;

23 (34) sec. 4, ch. 2, FSSLA 2019, page 11, lines 13 - 14 (Department of Health  
24 and Social Services, MH: home modification and upgrades to retain housing - \$300,000), for  
25 mental health: home modification and upgrades to retain housing;

26 (35) sec. 4, ch. 3, FSSLA 2019, page 15, lines 6 - 7 (Department of Health and  
27 Social Services, electronic visit verification system implementation - \$4,272,900), for  
28 electronic visit verification system implementation;

29 (36) sec. 7, ch. 1, SSSLA 2019, page 14, line 10 (Department of Health and  
30 Social Services, MH: assistive technology - \$500,000), for mental health: assistive  
31 technology;

1 (37) sec. 7, ch. 1, SSSLA 2019, page 14, lines 11 - 12 (Department of Health  
2 and Social Services, MH: deferred maintenance and accessibility improvements - \$250,000),  
3 for mental health: deferred maintenance and accessibility improvements;

4 (38) sec. 7, ch. 1, SSSLA 2019, page 14, lines 13 - 14 (Department of Health  
5 and Social Services, MH: home modification and upgrades to retain housing - \$750,000), for  
6 mental health: home modification and upgrades to retain housing;

7 (39) sec. 4, ch. 2, SLA 2020, page 11, line 10 (Department of Health and  
8 Social Services, MH: assistive technology - \$500,000), for mental health: assistive  
9 technology;

10 (40) sec. 4, ch. 2, SLA 2020, page 11, lines 11 - 12 (Department of Health and  
11 Social Services, MH deferred maintenance and accessibility improvements - \$500,000), for  
12 mental health: deferred maintenance and accessibility improvements;

13 (41) sec. 4, ch. 2, SLA 2020, page 11, lines 13 - 14 (Department of Health and  
14 Social Services, MH essential program equipment - \$600,000), for mental health: essential  
15 program equipment;

16 (42) sec. 4, ch. 2, SLA 2020, page 11, lines 15 - 16 (Department of Health and  
17 Social Services, MH home modification and upgrades to retain housing - \$1,050,000), for  
18 mental health: home modification and upgrades to retain housing;

19 (43) sec. 5, ch. 8, SLA 2020, page 65, lines 28 - 29, as amended by sec.  
20 34(b)(4), ch. 1, SSSLA 2021 (Department of Health and Social Services, emergency medical  
21 services match for code blue project), for emergency medical services match for the code blue  
22 project;

23 (44) sec. 8, ch. 1, SSSLA 2021, page 73, line 11 (Department of Health and  
24 Social Services, health information exchange - \$4,080,908), for the health information  
25 exchange;

26 (45) sec. 8, ch. 1, SSSLA 2021, page 73, lines 12 - 13 (Department of Health  
27 and Social Services, emergency medical services match for code blue project - \$500,000), for  
28 emergency medical services match for the code blue project;

29 (46) sec. 8, ch. 1, SSSLA 2021, page 73, line 14 (Department of Health and  
30 Social Services, Fairbanks Youth Facility - \$18,986,720), for the Fairbanks Youth Facility;

31 (47) sec. 34(a), ch. 1, SSSLA 2021 (Department of Health and Social

Services, safety improvements and remediation to the Salvation Army Clitheroe Center and renovating a second site), for safety improvements and remediation to the Salvation Army Clitheroe Center and renovating a second site.

(b) The sum of \$5,000,000 is appropriated from the general fund to the Department of Health, child care program office, for parent education, licensed child care, school age programs, workforce recruitment and retention, affordability programs, and other initiatives provided for by the goal to support continuous quality improvement, section 7 of the Child Care and Development Fund Plan for Alaska, for the fiscal year ending June 30, 2023.

\* **Sec. 40.** DEPARTMENT OF HEALTH AND SOCIAL SERVICES: CAPITAL. (a) Section 1, ch. 82, SLA 2006, page 73, lines 24 - 26, is amended to read:

	APPROPRIATION	GENERAL	OTHER
	ITEMS	FUND	FUNDS
Medicaid Management	17,911,600	1,791,200	16,120,400

Information System

Completion **and Cyberattack**

**Mitigation and Response** (HD 1-40)

(b) Section 4, ch. 30, SLA 2007, page 95, lines 18 - 20, is amended to read:

	APPROPRIATION	GENERAL	OTHER
	ITEMS	FUND	FUNDS
Medicaid Management	12,040,900	1,204,100	10,836,800

Information System

Completion **and Cyberattack**

**Mitigation and Response** (HD 1-40)

\* **Sec. 41.** DEPARTMENT OF NATURAL RESOURCES: CAPITAL. The unexpended and unobligated balance, not to exceed \$200,000 of the total estimated balance of \$705,300, of the appropriation made in sec. 1, ch. 18, SLA 2014, page 9, lines 9 - 11 (Angoon, existing community sewer system and outfall line replacement - \$709,500), is reappropriated to the Department of Natural Resources, division of parks and outdoor recreation, for repairs to the Halibut Point State Recreation Site.

\* **Sec. 42.** DEPARTMENT OF PUBLIC SAFETY: CAPITAL. The unexpended and unobligated balances, estimated to be a total of \$13,562,768, of the following appropriations

1 are reappropriated to the Department of Public Safety for Alaska Public Safety  
2 Communication Services:

3 (1) sec. 4, ch. 7, SLA 2020, page 8, lines 25 - 26 (Department of Military and  
4 Veterans' Affairs, Alaska land mobile radio site refresh, \$24,000,000), estimated balance of  
5 \$6,480,000;

6 (2) sec. 5, ch. 8, SLA 2020, page 66, lines 13 - 15 (Department of Military and  
7 Veterans' Affairs, Alaska land mobile radio and State of Alaska telecommunications system -  
8 \$5,000,000), estimated balance of \$4,981,270;

9 (3) sec. 35(a)(1), ch. 1, SSSLA 2021 (Department of Military and Veterans'  
10 Affairs, Alaska land mobile radio system), estimated balance of \$338,785;

11 (4) sec. 35(a)(2), ch. 1, SSSLA 2021 (Department of Military and Veterans'  
12 Affairs, Alaska land mobile radio system), estimated balance of \$820,204;

13 (5) sec. 35(a)(3), ch. 1, SSSLA 2021 (Department of Military and Veterans'  
14 Affairs, Alaska land mobile radio system), estimated balance of \$942,509.

15 \* **Sec. 43.** DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES:  
16 CAPITAL. (a) The unexpended and unobligated general fund balances, estimated to be a total  
17 of \$4,661,302, of the following appropriations are reappropriated to the Department of  
18 Transportation and Public Facilities for responding to emergency weather conditions and  
19 catastrophic events:

20 (1) sec. 4, ch. 30, SLA 2007, page 104, lines 16 - 18 (Department of  
21 Transportation and Public Facilities, fuel storage tank spill prevention and tank replacement -  
22 \$1,750,000), estimated balance of \$4,462;

23 (2) sec. 19, ch. 29, SLA 2008, page 186, line 8, and allocated on page 187,  
24 lines 17 - 18, as amended by sec. 35(b), ch. 5, FSSLA 2011 and secs. 21(a) and (b), ch. 1,  
25 TSSLA 2017 (Department of Transportation and Public Facilities, transportation projects,  
26 Nome Snake River bridge replacement), estimated balance of \$485,660; and

27 (3) sec. 16(e), ch. 38, SLA 2015 (Department of Transportation and Public  
28 Facilities, Dalton Highway disaster emergency repairs), estimated balance of \$4,171,180.

29 (b) The unexpended and unobligated general fund balance, not to exceed \$15,000,000  
30 of the estimated balance of \$18,051,300, of the appropriation made in sec. 19, ch. 29, SLA  
31 2008, page 186, line 8, and allocated on page 187, lines 10 - 11, as amended by sec. 35(b), ch.

1 5, FSSLA 2011, and secs. 21(a) and (b), ch. 1, TSSLA 2017 (Department of Transportation  
2 and Public Facilities, transportation projects, Fairview Loop Road reconstruction), is  
3 reappropriated to the Department of Transportation and Public Facilities for the Totchaket  
4 Road project.

5 (c) The unexpended and unobligated balance, estimated to be \$685,000, of the  
6 appropriation made in sec. 1, ch. 18, SLA 2014, page 8, line 33, through page 9, line 3, as  
7 amended by secs. 43(a) - (d), ch. 1, SSSLA 2021 (Anchorage, Yosemite Drive area, drainage  
8 and road upgrade), is reappropriated to the Department of Transportation and Public Facilities  
9 for repairing the Eagle River Road bike path.

10 \* **Sec. 44. ALASKA LEGISLATURE: CAPITAL.** The proceeds from the sale of the vacant  
11 lot at 1500 W. 31st Ave., Fouts Lot 4A, Anchorage, Alaska, by the Alaska Legislature,  
12 Legislative Council, are appropriated from the general fund to the Alaska Legislature,  
13 Legislative Council, council and subcommittees, for renovation and repair of, technology  
14 improvements to, and other necessary projects related to legislative buildings and facilities.

15 \* **Sec. 45. REAPPROPRIATION OF LEGISLATIVE APPROPRIATIONS: CAPITAL.**  
16 The unexpended and unobligated general fund balances of the following appropriations are  
17 reappropriated to the Alaska Legislature, Legislative Council, council and subcommittees, for  
18 renovation and repair of, technology improvements to, and other necessary projects related to  
19 legislative buildings and facilities:

20 (1) sec. 1, ch. 1, SSSLA 2021, page 39, line 29 (Alaska Legislature, Budget  
21 and Audit Committee - \$16,183,900);

22 (2) sec. 1, ch. 1, SSSLA 2021, page 39, line 33 (Alaska Legislature,  
23 Legislative Council - \$22,927,800); and

24 (3) sec. 1, ch. 1, SSSLA 2021, page 40, line 11 (Alaska Legislature, legislative  
25 operating budget - \$28,394,200).

26 \* **Sec. 46. HOUSE DISTRICTS 1 - 40: CAPITAL.** (a) The sum of \$7,050,000 is  
27 appropriated from the general fund to the Department of Commerce, Community, and  
28 Economic Development for payment as a grant under AS 37.05.316 to the International  
29 Longshore and Warehouse Union Alaska Longshore Division for maintenance of health and  
30 welfare coverage that was impacted by COVID-19 for registered longshoremen.

31 (b) The unexpended and unobligated balance, estimated to be \$230,138, of the



1 appropriation made in sec. 10, ch. 29, SLA 2008, page 63, lines 16 - 19, and allocated on page  
2 63, lines 31 - 32 (Department of Corrections, deferred maintenance, renewal, replacement,  
3 renovation, remodeling and repairs, Lemon Creek Correctional Center project - \$350,000), is  
4 reappropriated to the Department of Commerce, Community, and Economic Development for  
5 payment as a grant under AS 37.05.316 to the Associated General Contractors of Alaska for  
6 the We Build Alaska workforce campaign for the fiscal year ending June 30, 2023.

7 \* **Sec. 47.** HOUSE DISTRICT 6: CAPITAL. The unexpended and unobligated balances,  
8 estimated to be \$302,498, of the following appropriations are reappropriated to the  
9 Department of Commerce, Community, and Economic Development for payment as a grant  
10 under AS 37.05.316 to the Yukon Flats School District for water tank roof replacement at the  
11 Tsuk Taih School:

12 (1) sec. 21(a), ch. 2, 4SSLA 2016 (Department of Environmental  
13 Conservation, Haines sewer treatment plant health and safety upgrades), estimated balance of  
14 \$166,859; and

15 (2) sec. 22, ch. 19, SLA 2018 (Department of Environmental Conservation,  
16 project administration of water quality enhancement, water supply, sewage, and solid waste  
17 facilities grants to municipalities), estimated balance of \$135,639.

18 \* **Sec. 48.** HOUSE DISTRICTS 7 - 12: CAPITAL. (a) The unexpended and unobligated  
19 balance, estimated to be \$180,844, of the appropriation made in sec. 34(c), ch. 17, SLA 2012  
20 (Matanuska-Susitna Borough, South Big Lake Road construction), is reappropriated to the  
21 Department of Commerce, Community, and Economic Development for payment as a grant  
22 under AS 37.05.315 to the Matanuska-Susitna Borough for maintenance of seasonally  
23 impassable roads in the Big Lake area for the fiscal year ending June 30, 2023.

24 (b) The sum of \$1,000,000 is appropriated from the general fund to the Department of  
25 Commerce, Community, and Economic Development for payment as a grant under  
26 AS 37.05.315 to the Matanuska-Susitna Borough for costs associated with hosting the 2024  
27 Arctic Winter Games.

28 (c) The sum of \$30,000,000 is appropriated from the general fund to the Department  
29 of Commerce, Community, and Economic Development for payment as a grant under  
30 AS 37.05.315 to the Matanuska-Susitna Borough for implementation of the 2021 Matanuska-  
31 Susitna Borough Transportation Infrastructure Package.

1     \* **Sec. 49.** HOUSE DISTRICTS 12 - 28: CAPITAL. (a) Section 45, ch. 1, SSSLA 2021, is  
2 amended to read:

3             HOUSE DISTRICT 23: CAPITAL. The unexpended and unobligated balance,  
4 estimated to be \$83,749, of the appropriation made in sec. 1, ch. 17, SLA 2012, page  
5 13, lines 23 - 25 (Anchorage, Fish Creek Trail, Northwood Drive to Spenard Road -  
6 \$575,000), is reappropriated to the Department of Commerce, Community, and  
7 Economic Development for payment as a grant under AS 37.05.315 to the  
8 Municipality of Anchorage, Anchorage Water and Wastewater Utility, for a water  
9 distribution system for the Hillcrest Subdivision **and reimbursement of eligible**  
10 **assessments.**

11            (b) The unexpended and unobligated balance, not to exceed \$150,000 of the total  
12 estimated balance of \$408,937, of the appropriation made in sec. 1, ch. 5, FSSLA 2011, page  
13 5, lines 16 - 18 (Anchorage, 121st Avenue storm drain construction - \$1,200,000), is  
14 reappropriated to the Department of Commerce, Community, and Economic Development for  
15 payment as a grant under AS 37.05.315 to the Municipality of Anchorage for design, site  
16 selection, construction, and operation of community gardens in the Russian Jack area.

17            (c) The unexpended and unobligated balance, after the appropriation made in (b) of  
18 this section, not to exceed \$10,000 of the total estimated balance of \$408,937, of the  
19 appropriation made in sec. 1, ch. 5, FSSLA 2011, page 5, lines 16 - 18 (Anchorage, 121st  
20 Avenue storm drain construction - \$1,200,000), is reappropriated to the Department of  
21 Commerce, Community, and Economic Development for payment as a grant under  
22 AS 37.05.316 to the Federation of Community Councils, Inc., for the Nunaka Valley  
23 Community Patrol for the fiscal year ending June 30, 2023.

24            (d) The unexpended and unobligated balance, after the appropriations made in (b) and  
25 (c) of this section, not to exceed \$10,000 of the total estimated balance of \$408,937, of the  
26 appropriation made in sec. 1, ch. 5, FSSLA 2011, page 5, lines 16 - 18 (Anchorage, 121st  
27 Avenue storm drain construction - \$1,200,000), is reappropriated to the Department of  
28 Commerce, Community, and Economic Development for payment as a grant under  
29 AS 37.05.316 to the Federation of Community Councils, Inc., for the Northeast Community  
30 Patrol for the fiscal year ending June 30, 2023.

31            (e) The unexpended and unobligated balance, after the appropriations made in (b) -

1 (d) of this section, not to exceed \$50,000 of the total estimated balance of \$408,937, of the  
2 appropriation made in sec. 1, ch. 5, FSSLA 2011, page 5, lines 16 - 18 (Anchorage, 121st  
3 Avenue storm drain construction - \$1,200,000), is reappropriated to the Department of  
4 Commerce, Community, and Economic Development for payment as a grant under  
5 AS 37.05.316 to the Federation of Community Councils, Inc., for Government Hill Commons  
6 fencing.

7 (f) The unexpended and unobligated balance, after the appropriations made in (b) - (e)  
8 of this section, not to exceed \$100,000 of the total estimated balance of \$408,937, of the  
9 appropriation made in sec. 1, ch. 5, FSSLA 2011, page 5, lines 16 - 18 (Anchorage, 121st  
10 Avenue storm drain construction - \$1,200,000), is reappropriated to the Department of  
11 Commerce, Community, and Economic Development for payment as a grant under  
12 AS 37.05.315 to the Municipality of Anchorage for a traffic calming study of the Campbell  
13 Park area.

14 (g) The unexpended and unobligated balance, after the appropriations made in (b) - (f)  
15 of this section, not to exceed \$15,000 of the total estimated balance of \$408,937, of the  
16 appropriation made in sec. 1, ch. 5, FSSLA 2011, page 5, lines 16 - 18 (Anchorage, 121st  
17 Avenue storm drain construction - \$1,200,000), is reappropriated to the Department of  
18 Commerce, Community, and Economic Development for payment as a grant under  
19 AS 37.05.316 to the Anchorage School District for the Airport Heights Elementary School ice  
20 rink.

21 (h) The unexpended and unobligated balance, after the appropriations made in (b) -  
22 (g) of this section, estimated to be \$73,937 of the total estimated balance of \$408,937, of the  
23 appropriation made in sec. 1, ch. 5, FSSLA 2011, page 5, lines 16 - 18 (Anchorage, 121st  
24 Avenue storm drain construction - \$1,200,000), is reappropriated to the Department of  
25 Commerce, Community, and Economic Development for payment as a grant under  
26 AS 37.05.315 to the Municipality of Anchorage for improvements to forest health and park  
27 safety.

28 (i) The unexpended and unobligated balance, estimated to be \$101,864, of the  
29 appropriation made in sec. 1, ch. 18, SLA 2014, page 8, lines 10 - 11 (Anchorage, pedestrian  
30 and student safety - \$250,000), is reappropriated to the Department of Commerce,  
31 Community, and Economic Development for payment as a grant under AS 37.05.315 to the

1 Municipality of Anchorage for the design phase of the Norann Subdivision area road  
2 reconstruction.

3 (j) The unexpended and unobligated balances, estimated to be a total of \$44,863, of  
4 the following appropriations are reappropriated to the Department of Commerce, Community,  
5 and Economic Development for payment as a grant under AS 37.05.316 to the Federation of  
6 Community Councils, Inc., for the Fairview Community Garden:

7 (1) sec. 1, ch. 18, SLA 2014, page 8, lines 30 - 32 (Anchorage, West Northern  
8 Lights Boulevard at Alaska Railroad Overpass drainage improvements - \$375,000), estimated  
9 balance of \$37,743;

10 (2) sec. 1, ch. 18, SLA 2014, page 24, lines 23 - 25 (Anchorage School  
11 District, Chugach Optional Elementary school playground addition and green area - \$60,000),  
12 estimated balance of \$3,743; and

13 (3) sec. 1, ch. 18, SLA 2014, page 25, line 33, through page 26, line 4  
14 (Anchorage School District, Eagle Academy Charter School, new science textbooks -  
15 \$27,610), estimated balance of \$3,377.

16 (k) The unexpended and unobligated balance, estimated to be \$25,000, of the  
17 appropriation made in sec. 8, ch. 1, SSSLA 2021, page 71, lines 5 - 6 (Anchorage, energy  
18 burden mapping - \$25,000), is reappropriated to the Department of Commerce, Community,  
19 and Economic Development for payment as a grant under AS 37.05.316 to the Anchorage  
20 Community Land Trust for energy burden mapping.

21 (l) An amount not to exceed \$100,000,000 is appropriated from the budget reserve  
22 fund (AS 37.05.540(a)) to the Department of Commerce, Community, and Economic  
23 Development for payment as a grant under AS 37.05.315 to the Municipality of Anchorage  
24 for the Port of Alaska modernization project for the purpose of matching each dollar received  
25 in federal funds for the Port of Alaska modernization project, not including funds received in  
26 Anchorage, a Municipal Corporation v. United States, Case No. 14-166C, United States Court  
27 of Federal Claims.

28 \* **Sec. 50.** HOUSE DISTRICT 19: CAPITAL. The unexpended and unobligated balance,  
29 estimated to be \$16,809, of the appropriation made in sec. 37(s), ch. 16, SLA 2013 (Alaska  
30 Brain Injury Network, Inc., research and information analysis), is reappropriated to the  
31 Department of Commerce, Community, and Economic Development for payment as a grant

1 under AS 37.05.316 to the Boys and Girls Clubs of Southcentral Alaska for Mountain View  
2 club equipment.

3 \* **Sec. 51.** HOUSE DISTRICT 32: CAPITAL. The unexpended and unobligated balance,  
4 estimated to be \$25,000, of the appropriation made in sec. 1, ch. 18, SLA 2014, page 16, lines  
5 28 - 29 (Seldovia, smolt stocking for Seldovia Slough - \$25,000), is reappropriated to the  
6 Department of Commerce, Community, and Economic Development for payment as a grant  
7 under AS 37.05.315 to the City of Seldovia for education about and promotion of smolt  
8 stocking for Seldovia Slough for the fiscal year ending June 30, 2023.

9 \* **Sec. 52.** HOUSE DISTRICT 35: CAPITAL. (a) The unexpended and unobligated balance,  
10 after the appropriation made in sec. 41 of this Act, not to exceed \$160,000 of the total  
11 estimated balance of \$705,300, of the appropriation made in sec. 1, ch. 18, SLA 2014, page 9,  
12 lines 9 - 11 (Angoon, existing community sewer system and outfall line replacement -  
13 \$709,500), is reappropriated to the Department of Commerce, Community, and Economic  
14 Development for payment as a grant under AS 37.05.315 to the City of Port Alexander for  
15 renovation of the community hall.

16 (b) The unexpended and unobligated balance, after the appropriations made in secs.  
17 36 and 41 of this Act and (a) of this section, not to exceed \$150,000 of the total estimated  
18 balance of \$705,300, of the appropriation made in sec. 1, ch. 18, SLA 2014, page 9, lines 9 -  
19 11 (Angoon, existing community sewer system and outfall line replacement - \$709,500), is  
20 reappropriated to the Department of Commerce, Community, and Economic Development for  
21 payment as a grant under AS 37.05.315 to the City of Craig for repair and upgrade of the  
22 Prince of Wales emergency resource building.

23 (c) The unexpended and unobligated balance, after the appropriations made in secs.  
24 36 and 41 of this Act and (a) and (b) of this section, estimated to be \$100,300 of the total  
25 estimated balance of \$705,300, of the appropriation made in sec. 1, ch. 18, SLA 2014, page 9,  
26 lines 9 - 11 (Angoon, existing community sewer system and outfall line replacement -  
27 \$709,500), is reappropriated to the Department of Commerce, Community, and Economic  
28 Development for payment as a grant under AS 37.05.315 to the Petersburg Borough for  
29 lighting at the ballpark and ice rink.

30 (d) The unexpended and unobligated balances, estimated to be \$22,859, of the  
31 following appropriations are reappropriated to the Department of Commerce, Community,

1 and Economic Development for payment as a grant under AS 37.05.315 to the Petersburg  
2 Borough for lighting at the ballpark and ice rink:

3 (1) sec. 1, ch. 17, SLA 2012, page 38, lines 23 - 25 (Sitka, Nelson Logging  
4 Road upgrade and ownership transfer - \$2,343,000), estimated balance of \$14,961;

5 (2) sec. 1, ch. 16, SLA 2013, page 26, lines 21 - 23 (Thorne Bay, manholes  
6 and sewer lines repairs - \$200,000), estimated balance of \$4,576; and

7 (3) sec. 1, ch. 18, SLA 2014, page 9, lines 6 - 8 (Angoon, construct roof and  
8 install lighting for outdoor basketball court - \$35,000), estimated balance of \$3,322.

9 (e) The unexpended and unobligated balance, estimated to be \$53,289, of the  
10 appropriation made in sec. 1, ch. 17, SLA 2012, page 18, lines 17 - 18 (Angoon, Front Road  
11 renovation - \$1,500,000), is reappropriated to the Department of Commerce, Community, and  
12 Economic Development for payment as a grant under AS 37.05.315 to the City of Pelican to  
13 purchase a backup generator for the hydroelectric turbine start.

14 \* **Sec. 53.** HOUSE DISTRICT 38: CAPITAL. The unexpended and unobligated balances,  
15 estimated to be a total of \$19,411, of the following appropriations are reappropriated to the  
16 Department of Commerce, Community, and Economic Development for payment as a grant  
17 under AS 37.05.316 to Bethel Search and Rescue for equipment and operations:

18 (1) sec. 1, ch. 17, SLA 2012, page 37, lines 15 - 17, as amended by sec.  
19 49(a)(1), ch. 1, SSSLA 2021 (Russian Mission, dump relocation design and permitting),  
20 estimated balance of \$10,001;

21 (2) sec. 43(k), ch. 18, SLA 2014 (Iditarod Area School District, replacement  
22 of the Holy Cross fuel system), estimated balance of \$1,115; and

23 (3) sec. 43(l), ch. 18, SLA 2014 (Iditarod Area School District, treatment of  
24 contaminated soil in Holy Cross), estimated balance of \$8,295.

25 \* **Sec. 54.** HOUSE DISTRICT 39: CAPITAL. (a) The unexpended and unobligated  
26 balances, estimated to be a total of \$349,994, of the following appropriations are  
27 reappropriated to the Department of Commerce, Community, and Economic Development for  
28 payment as a grant under AS 37.05.315 to the City of Golovin for the purchase of heavy  
29 equipment:

30 (1) sec. 10, ch. 43, SLA 2010, page 88, lines 29 - 30 (Elim, VPSO housing -  
31 \$100,000), estimated balance of \$55,695;

1 (2) sec. 1, ch. 16, SLA 2013, page 13, lines 14 - 16 (Elim, community fire  
2 response and protection - \$1,243,000), an amount not to exceed \$168,714 of the total  
3 estimated balance of \$338,238;

4 (3) sec. 46(a), ch. 16, SLA 2013 (City of Diomedes, construction and remodel  
5 of a clinic), estimated balance of \$17,101;

6 (4) sec. 1, ch. 18, SLA 2014, page 10, line 6 (Elim, washeteria - \$114,919),  
7 estimated balance of \$69,584; and

8 (5) sec. 1, ch. 18, SLA 2014, page 14, lines 20 - 21 (Mountain Village,  
9 renovation of clinic and VPSO housing - \$61,510), estimated balance of \$38,900.

10 (b) The unexpended and unobligated balance, after the appropriation made in (a)(2) of  
11 this section, of the total estimated balance of \$338,238, of the appropriation made in sec. 1,  
12 ch. 16, SLA 2013, page 13, lines 14 - 16 (Elim, community fire response and protection -  
13 \$1,243,000), is reappropriated to the Department of Commerce, Community, and Economic  
14 Development for payment as a grant under AS 37.05.315 to the City of Pilot Station for the  
15 purchase of heavy equipment.

16 \* **Sec. 55.** OFFICE OF THE GOVERNOR: CAPITAL. (a) The unexpended and  
17 unobligated general fund balances, estimated to be a total of \$850,000, of the following  
18 appropriations are reappropriated to the Office of the Governor for transition costs and for  
19 capital costs related to state facilities, information technology, and security:

20 (1) sec. 1, ch. 1, SSSLA 2021, page 15, line 11 (Office of the Governor,  
21 commissions/special offices - \$2,555,900);

22 (2) sec. 1, ch. 1, SSSLA 2021, page 15, line 16 (Office of the Governor,  
23 executive operations - \$13,778,300);

24 (3) sec. 1, ch. 1, SSSLA 2021, page 15, lines 21 - 22 (Office of the Governor,  
25 Office of the Governor state facilities rent - \$1,086,800);

26 (4) sec. 1, ch. 1, SSSLA 2021, page 15, line 26 (Office of the Governor, office  
27 of management and budget - \$5,840,400);

28 (5) sec. 1, ch. 1, SSSLA 2021, page 16, line 6 (Office of the Governor,  
29 elections - \$4,323,300); and

30 (6) sec. 1, ch. 1, SSSLA 2021, page 16, line 8 (Office of the Governor, central  
31 services cost allocation rates - \$5,000,000).

1 (b) The unexpended and unobligated balances, estimated to be \$40,916, of the  
2 following appropriations are reappropriated to the Office of the Governor, office of  
3 management and budget, for deferred maintenance:

4 (1) sec. 1, ch. 82, SLA 2006, page 3, lines 26 - 28 (Department of Commerce,  
5 Community, and Economic Development, division of insurance information technology  
6 project - \$1,352,500), estimated balance of \$34,227;

7 (2) sec. 18(a), ch. 18, SLA 2014 (Department of Military and Veterans'  
8 Affairs, Army Guard facilities projects, Alcantra facilities projects), estimated balance of  
9 \$5,689; and

10 (3) sec. 1, ch. 1, SSSLA 2019, page 2, lines 26 - 28 (Arctic Winter Games  
11 Team Alaska, state participation grant 2020 - \$38,500), estimated balance of \$1,000.

12 (c) If the amount appropriated to the Alaska capital income fund (AS 37.05.565) in  
13 the fiscal years ending June 30, 2022, and June 30, 2023, exceeds the total amount  
14 appropriated from the Alaska capital income fund in sec. 11 of this Act and in sec. 8, ch. 1,  
15 SSSLA 2021, the excess amount, estimated to be \$0, is appropriated from the Alaska capital  
16 income fund to the Office of the Governor, office of management and budget, for deferred  
17 maintenance.

18 (d) The amount of coronavirus capital projects fund receipts, not to exceed  
19 \$10,000,000, appropriated in sec. 14 of this Act for grant applications that are denied by the  
20 United States Department of the Treasury, is reappropriated to the Office of the Governor,  
21 office of management and budget, for construction of the Yukon-Kuskokwim multipurpose  
22 community facility in Bethel, as allowed under the Guidance for the Coronavirus Capital  
23 Projects Fund for States, Territories, and Freely Associated States issued by the United States  
24 Department of the Treasury.

25 (e) The amount of coronavirus capital projects fund receipts, after the appropriation  
26 made in (d) of this section, not to exceed \$3,700,000, appropriated in sec. 14 of this Act for  
27 grant applications that are denied by the United States Department of the Treasury is  
28 reappropriated to the Office of the Governor, office of management and budget, for  
29 construction of the Teal Street Center in Juneau, as allowed under the Guidance for the  
30 Coronavirus Capital Projects Fund for States, Territories, and Freely Associated States issued  
31 by the United States Department of the Treasury.



1 (f) The amount of coronavirus capital projects fund receipts, after the appropriations  
2 made in (d) and (e) of this section, not to exceed \$1,307,000, appropriated in sec. 14 of this  
3 Act for grant applications that are denied by the United States Department of the Treasury is  
4 reappropriated to the Office of the Governor, office of management and budget, for critical  
5 updates to the Muldoon Library in Anchorage, as allowed under the Guidance for the  
6 Coronavirus Capital Projects Fund for States, Territories, and Freely Associated States issued  
7 by the United States Department of the Treasury.

8 (g) The amount of coronavirus capital projects fund receipts, after the appropriations  
9 made in (d) - (f) of this section, not to exceed \$3,580,000, appropriated in sec. 14 of this Act  
10 for grant applications that are denied by the United States Department of the Treasury is  
11 reappropriated to the Office of the Governor, office of management and budget, for upgrades  
12 and repairs to the Noel Wien Public Library in Fairbanks, as allowed under the Guidance for  
13 the Coronavirus Capital Projects Fund for States, Territories, and Freely Associated States  
14 issued by the United States Department of the Treasury.

15 (h) The amount of coronavirus capital projects fund receipts, after the appropriations  
16 made in (d) - (g) of this section, appropriated in sec. 14 of this Act for grant applications that  
17 are denied by the United States Department of the Treasury is reappropriated to the Office of  
18 the Governor, office of management and budget, for rural health community centers and  
19 eligible rural broadband projects, as allowed under the Guidance for the Coronavirus Capital  
20 Projects Fund for States, Territories, and Freely Associated States issued by the United States  
21 Department of the Treasury.

22 \* **Sec. 56.** UNIVERSITY OF ALASKA: CAPITAL. The unexpended and unobligated  
23 balance, estimated to be \$18,359, of the appropriation made in sec. 1, ch. 17, SLA 2012, page  
24 4, lines 11 - 13 (Department of Commerce, Community, and Economic Development, Alaska  
25 Canada Rail Link Phase II Feasibility Study - \$1,100,000), is reappropriated to the University  
26 of Alaska Fairbanks for deferred maintenance.

27 \* **Sec. 57.** COSTS OF JOB RECLASSIFICATIONS. The money appropriated in this Act  
28 includes the amount necessary to pay the costs of personal services because of reclassification  
29 of job classes during the fiscal year ending June 30, 2023.

30 \* **Sec. 58.** ALASKA AEROSPACE CORPORATION. Federal receipts and other corporate  
31 receipts of the Alaska Aerospace Corporation received during the fiscal year ending June 30,

2023, that are in excess of the amount appropriated in sec. 1 of this Act are appropriated to the Alaska Aerospace Corporation for operations for the fiscal year ending June 30, 2023.

\* **Sec. 59.** ALASKA HOUSING CAPITAL CORPORATION. (a) The unexpended and unobligated balances of the following appropriations are reappropriated to the Alaska Housing Capital Corporation account:

(1) sec. 18(c), ch. 1, SSSLA 2021, page 115, lines 1 - 3 (Department of Health and Social Services, United States Centers for Disease Control and Prevention funding for COVID-19 testing);

(2) sec. 18(c), ch. 1, SSSLA 2021, page 115, lines 4 - 6 (Department of Health and Social Services, United States Centers for Disease Control and Prevention funding for COVID-19 vaccination activities);

(3) sec. 18(d), ch. 1, SSSLA 2021, page 115, line 13 (Department of Health and Social Services, child care block grant);

(4) sec. 18(d), ch. 1, SSSLA 2021, page 115, line 14 (Department of Health and Social Services, child care stabilization grant);

(5) sec. 18(d), ch. 1, SSSLA 2021, page 115, lines 15 - 16 (Department of Health and Social Services, child nutrition pandemic electronic benefit transfer program);

(6) sec. 18(d), ch. 1, SSSLA 2021, page 115, lines 17 - 18 (Department of Health and Social Services, pandemic temporary assistance for needy families);

(7) sec. 18(e), ch. 1, SSSLA 2021, page 115, lines 25 - 26 (Department of Health and Social Services, family violence and child abuse prevention and treatment funding);

(8) sec. 18(e), ch. 1, SSSLA 2021, page 115, line 27 (Department of Health and Social Services, low income home energy assistance program);

(9) sec. 18(e), ch. 1, SSSLA 2021, page 115, line 28 (Department of Health and Social Services, mental health treatment funding);

(10) sec. 18(e), ch. 1, SSSLA 2021, page 115, lines 29 - 30 (Department of Health and Social Services, senior and disabilities services community-based grants);

(11) sec. 18(e), ch. 1, SSSLA 2021, page 115, line 31, through page 116, line 1 (Department of Health and Social Services, special supplemental nutrition program for women, infants, and children benefit improvements);

1 (12) sec. 18(e), ch. 1, SSSLA 2021, page 116, line 2 (Department of Health  
2 and Social Services, substance abuse block grant funding);

3 (13) sec. 18(e), ch. 1, SSSLA 2021, page 116, lines 3 - 4 (Department of  
4 Health and Social Services, United States Centers for Disease Control and Prevention funding  
5 for COVID-19 testing);

6 (14) sec. 18(e), ch. 1, SSSLA 2021, page 116, lines 5 - 7 (Department of  
7 Health and Social Services, United States Centers for Disease Control and Prevention for  
8 COVID-19 vaccination activities);

9 (15) sec. 18(f), ch. 1, SSSLA 2021 (Department of Health and Social Services,  
10 building epidemiology and laboratory capacity);

11 (16) sec. 18(h), ch. 1, SSSLA 2021, page 116, line 29 (Department of Health  
12 and Social Services, Alaska prescription drug monitoring program);

13 (17) sec. 18(h), ch. 1, SSSLA 2021, page 116, line 30 (Department of Health  
14 and Social Services, building epidemiology and laboratory capacity);

15 (18) sec. 18(h), ch. 1, SSSLA 2021, page 116, line 31 (Department of Health  
16 and Social Services, John H. Chafee foster care independence program);

17 (19) sec. 18(h), ch. 1, SSSLA 2021, page 117, line 1 (Department of Health  
18 and Social Services, education training voucher program);

19 (20) sec. 18(h), ch. 1, SSSLA 2021, page 117, line 2 (Department of Health  
20 and Social Services, promoting safe and stable families program);

21 (21) sec. 18(i), ch. 1, SSSLA 2021 (Department of Health and Social Services,  
22 child care and development block grant);

23 (22) sec. 60(b), ch. 1, SSSLA 2021 (Department of Health and Social  
24 Services, children's services, activities associated with implementing the Family First  
25 Prevention Services Act, including developing plans of safe-care, prevention-focused models  
26 for families of infants with prenatal substance exposure);

27 (23) sec. 60(c), ch. 1, SSSLA 2021 (Department of Health and Social  
28 Services, division of public health, emergency programs, responding to and mitigating the risk  
29 of a COVID-19 outbreak in the state);

30 (24) sec. 13(a), ch. 1, TSSLA 2021 (Department of Health and Social  
31 Services, division of public health, emergency programs, detect and mitigate COVID-19 in

1 confinement facilities); and

2 (25) sec. 13(c), ch. 1, TSSLA 2021 (Department of Health and Social  
3 Services, senior and disabilities services, supporting home-delivered meals to seniors, family  
4 caregiver support, and transportation services and expanding access to COVID-19 vaccines to  
5 seniors and individuals with disabilities).

6 (b) The unexpended and unobligated balance, not to exceed \$50,222,500, of the  
7 appropriation made in sec. 13(b), ch. 1, TSSLA 2021 (Department of Health and Social  
8 Services, division of public health, emergency programs, mitigate and respond to the novel  
9 coronavirus disease (COVID-19) - \$50,222,500) is reappropriated to the Alaska Housing  
10 Capital Corporation account.

11 \* **Sec. 60. ALASKA HOUSING FINANCE CORPORATION.** (a) The board of directors of  
12 the Alaska Housing Finance Corporation anticipates that \$26,615,000 of the adjusted change  
13 in net assets from the second preceding fiscal year will be available for appropriation for the  
14 fiscal year ending June 30, 2023.

15 (b) The Alaska Housing Finance Corporation shall retain the amount set out in (a) of  
16 this section for the purpose of paying debt service for the fiscal year ending June 30, 2023, in  
17 the following estimated amounts:

18 (1) \$1,000,000 for debt service on University of Alaska, Anchorage,  
19 dormitory construction, authorized under ch. 26, SLA 1996;

20 (2) \$3,605,000 for debt service on the bonds described under ch. 1, SSSLA  
21 2002;

22 (3) \$3,810,000 for debt service on the bonds authorized under sec. 4, ch. 120,  
23 SLA 2004.

24 (c) After deductions for the items set out in (b) of this section and deductions for  
25 appropriations for operating and capital purposes are made, any remaining balance of the  
26 amount set out in (a) of this section for the fiscal year ending June 30, 2023, is appropriated to  
27 the general fund.

28 (d) All unrestricted mortgage loan interest payments, mortgage loan commitment  
29 fees, and other unrestricted receipts received by or accrued to the Alaska Housing Finance  
30 Corporation during the fiscal year ending June 30, 2023, and all income earned on assets of  
31 the corporation during that period are appropriated to the Alaska Housing Finance

1 Corporation to hold as corporate receipts for the purposes described in AS 18.55 and  
2 AS 18.56. The corporation shall allocate its corporate receipts between the Alaska housing  
3 finance revolving fund (AS 18.56.082) and senior housing revolving fund (AS 18.56.710(a))  
4 under procedures adopted by the board of directors.

5 (e) The sum of \$800,000,000 is appropriated from the corporate receipts appropriated  
6 to the Alaska Housing Finance Corporation and allocated between the Alaska housing finance  
7 revolving fund (AS 18.56.082) and senior housing revolving fund (AS 18.56.710(a)) under  
8 (d) of this section to the Alaska Housing Finance Corporation for the fiscal year ending  
9 June 30, 2023, for housing loan programs not subsidized by the corporation.

10 (f) The sum of \$30,000,000 is appropriated from the portion of the corporate receipts  
11 appropriated to the Alaska Housing Finance Corporation and allocated between the Alaska  
12 housing finance revolving fund (AS 18.56.082) and senior housing revolving fund  
13 (AS 18.56.710(a)) under (d) of this section that is derived from arbitrage earnings to the  
14 Alaska Housing Finance Corporation for the fiscal year ending June 30, 2023, for housing  
15 loan programs and projects subsidized by the corporation.

16 (g) Designated program receipts under AS 37.05.146(b)(3) received by the Alaska  
17 Housing Finance Corporation, estimated to be \$40,000,000, for administration of housing and  
18 energy programs on behalf of a municipality, tribal housing authority, or other third party are  
19 appropriated to the Alaska Housing Finance Corporation for the fiscal years ending June 30,  
20 2023, and June 30, 2024.

21 \* **Sec. 61.** ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY. The  
22 sum of \$6,479,600, which has been declared available by the Alaska Industrial Development  
23 and Export Authority board of directors under AS 44.88.088 for appropriation as the dividend  
24 for the fiscal year ending June 30, 2023, is appropriated from the unrestricted balance in the  
25 Alaska Industrial Development and Export Authority revolving fund (AS 44.88.060), the  
26 Alaska Industrial Development and Export Authority sustainable energy transmission and  
27 supply development fund (AS 44.88.660), and the Arctic infrastructure development fund  
28 (AS 44.88.810) to the general fund.

29 \* **Sec. 62.** ALASKA PERMANENT FUND. (a) The amount required to be deposited under  
30 art. IX, sec. 15, Constitution of the State of Alaska, estimated to be \$359,100,000, during the  
31 fiscal year ending June 30, 2023, is appropriated to the principal of the Alaska permanent

1 fund in satisfaction of that requirement.

2 (b) The amount necessary, when added to the appropriation made in (a) of this  
3 section, to satisfy the deposit described under AS 37.13.010(a)(2), estimated to be  
4 \$74,800,000, during the fiscal year ending June 30, 2023, is appropriated from the general  
5 fund to the principal of the Alaska permanent fund.

6 (c) The sum of \$3,360,567,100 is appropriated from the earnings reserve account  
7 (AS 37.13.145) as follows:

8 (1) \$1,680,283,550 to the dividend fund (AS 43.23.045(a)) for the payment of  
9 permanent fund dividends and for administrative and associated costs for the fiscal year  
10 ending June 30, 2023;

11 (2) \$1,680,283,550 to the general fund for the fiscal year ending June 30,  
12 2023.

13 (d) The income earned during the fiscal year ending June 30, 2023, on revenue from  
14 the sources set out in AS 37.13.145(d), estimated to be \$27,670,000, is appropriated to the  
15 Alaska capital income fund (AS 37.05.565).

16 (e) The amount calculated under AS 37.13.145(c), after the appropriations made in (c)  
17 of this section, estimated to be \$1,039,000,000, is appropriated from the earnings reserve  
18 account (AS 37.13.145) to the principal of the Alaska permanent fund to offset the effect of  
19 inflation on the principal of the Alaska permanent fund for the fiscal year ending June 30,  
20 2023.

21 (f) If the unrestricted general fund revenue, including the appropriations made in (c)  
22 of this section, collected in the fiscal year ending June 30, 2023, exceeds \$8,225,000,000, the  
23 amount remaining, after all appropriations have been made that take effect in the fiscal year  
24 ending June 30, 2023, of the difference between \$8,225,000,000 and the actual unrestricted  
25 general fund revenue collected in the fiscal year ending June 30, 2023, estimated to be  
26 \$106,000,000, is appropriated from the general fund to the principal of the Alaska permanent  
27 fund.

28 \* **Sec. 63.** DEPARTMENT OF ADMINISTRATION. (a) The amount necessary to fund the  
29 uses of the state insurance catastrophe reserve account described in AS 37.05.289(a) is  
30 appropriated from that account to the Department of Administration for those uses for the  
31 fiscal year ending June 30, 2023.

1 (b) The amount necessary to fund the uses of the working reserve account described  
2 in AS 37.05.510(a) is appropriated from that account to the Department of Administration for  
3 those uses for the fiscal year ending June 30, 2023.

4 (c) The amount necessary to have an unobligated balance of \$5,000,000 in the  
5 working reserve account described in AS 37.05.510(a) is appropriated from the unexpended  
6 and unobligated balance of any appropriation enacted to finance the payment of employee  
7 salaries and benefits that is determined to be available for lapse at the end of the fiscal year  
8 ending June 30, 2023, to the working reserve account (AS 37.05.510(a)).

9 (d) The amount necessary to maintain, after the appropriation made in (c) of this  
10 section, a minimum target claim reserve balance of one and one-half times the amount of  
11 outstanding claims in the group health and life benefits fund (AS 39.30.095), not to exceed  
12 \$10,000,000, is appropriated from the unexpended and unobligated balance of any  
13 appropriation that is determined to be available for lapse at the end of the fiscal year ending  
14 June 30, 2023, to the group health and life benefits fund (AS 39.30.095).

15 (e) The amount necessary to have an unobligated balance equal to the amount of the  
16 cap set in AS 37.05.289(b) in the state insurance catastrophe reserve account  
17 (AS 37.05.289(a)), after the appropriations made in (c) and (d) of this section, is appropriated  
18 from the unexpended and unobligated balance of any appropriation that is determined to be  
19 available for lapse at the end of the fiscal year ending June 30, 2023, to the state insurance  
20 catastrophe reserve account (AS 37.05.289(a)).

21 (f) If the amount necessary to cover plan sponsor costs, including actuarial costs, for  
22 retirement system benefit payment calculations exceeds the amount appropriated for that  
23 purpose in sec. 1 of this Act, after all allowable payments from retirement system fund  
24 sources, that amount, not to exceed \$500,000, is appropriated from the general fund to the  
25 Department of Administration for that purpose for the fiscal year ending June 30, 2023.

26 (g) The amount necessary to cover actuarial costs associated with bills introduced by  
27 the legislature, estimated to be \$0, is appropriated from the general fund to the Department of  
28 Administration for that purpose for the fiscal year ending June 30, 2023.

29 \* **Sec. 64.** DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC  
30 DEVELOPMENT. (a) The unexpended and unobligated balance of federal money  
31 apportioned to the state as national forest income that the Department of Commerce,

1 Community, and Economic Development determines would lapse into the unrestricted portion  
2 of the general fund on June 30, 2023, under AS 41.15.180(j) is appropriated to home rule  
3 cities, first class cities, second class cities, a municipality organized under federal law, or  
4 regional educational attendance areas entitled to payment from the national forest income for  
5 the fiscal year ending June 30, 2023, to be allocated among the recipients of national forest  
6 income according to their pro rata share of the total amount distributed under AS 41.15.180(c)  
7 and (d) for the fiscal year ending June 30, 2023.

8 (b) If the amount necessary to make national forest receipts payments under  
9 AS 41.15.180 exceeds the amount appropriated for that purpose in sec. 1 of this Act, the  
10 amount necessary to make national forest receipts payments is appropriated from federal  
11 receipts received for that purpose to the Department of Commerce, Community, and  
12 Economic Development, revenue sharing, national forest receipts allocation, for the fiscal  
13 year ending June 30, 2023.

14 (c) If the amount necessary to make payments in lieu of taxes for cities in the  
15 unorganized borough under AS 44.33.020(a)(20) exceeds the amount appropriated for that  
16 purpose in sec. 1 of this Act, the amount necessary to make those payments is appropriated  
17 from federal receipts received for that purpose to the Department of Commerce, Community,  
18 and Economic Development, revenue sharing, payment in lieu of taxes allocation, for the  
19 fiscal year ending June 30, 2023.

20 (d) The amount necessary for the purposes specified in AS 42.45.085(a), estimated to  
21 be \$32,355,000, not to exceed the amount determined under AS 42.45.080(c)(1), is  
22 appropriated from the power cost equalization endowment fund (AS 42.45.070(a)) to the  
23 Department of Commerce, Community, and Economic Development, Alaska Energy  
24 Authority, power cost equalization allocation, for the fiscal year ending June 30, 2023.

25 (e) The amount received in settlement of a claim against a bond guaranteeing the  
26 reclamation of state, federal, or private land, including the plugging or repair of a well,  
27 estimated to be \$150,000, is appropriated to the Alaska Oil and Gas Conservation  
28 Commission for the purpose of reclaiming the state, federal, or private land affected by a use  
29 covered by the bond for the fiscal year ending June 30, 2023.

30 (f) The sum of \$281,567 is appropriated from the civil legal services fund  
31 (AS 37.05.590) to the Department of Commerce, Community, and Economic Development



1 for payment as a grant under AS 37.05.316 to Alaska Legal Services Corporation for the  
2 fiscal year ending June 30, 2023.

3 (g) The amount of federal receipts received for the reinsurance program under  
4 AS 21.55 during the fiscal year ending June 30, 2023, is appropriated to the Department of  
5 Commerce, Community, and Economic Development, division of insurance, for the  
6 reinsurance program under AS 21.55 for the fiscal year ending June 30, 2023.

7 (h) The unexpended and unobligated balance on June 30, 2022, of federal receipts the  
8 Alaska Seafood Marketing Institute received from the American Rescue Plan Act of 2021  
9 (P.L. 117-2), estimated to be \$0, is reappropriated to the Department of Commerce,  
10 Community, and Economic Development, Alaska Seafood Marketing Institute, for seafood  
11 marketing activities for the fiscal years ending June 30, 2023, and June 30, 2024.

12 \* **Sec. 65.** DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT. (a) An  
13 amount equal to 50 percent of the donations received under AS 43.23.230(b) for the fiscal  
14 year ending June 30, 2023, estimated to be \$426,100, is appropriated to the Department of  
15 Education and Early Development to be distributed as grants to school districts according to  
16 the average daily membership for each school district adjusted under AS 14.17.410(b)(1)(A) -  
17 (D) for the fiscal year ending June 30, 2023.

18 (b) If the unexpended and unobligated balance of federal funds on June 30, 2022,  
19 received by the Department of Education and Early Development, education support and  
20 administrative services, student and school achievement, from the United States Department  
21 of Education for grants to educational entities and nonprofit and nongovernment organizations  
22 exceeds the amount appropriated to the Department of Education and Early Development,  
23 education support and administrative services, student and school achievement, in sec. 1 of  
24 this Act, the excess amount is appropriated to the Department of Education and Early  
25 Development, education support and administrative services, student and school achievement  
26 allocation, for that purpose for the fiscal year ending June 30, 2023.

27 (c) The proceeds from the sale of state-owned Mt. Edgecumbe High School land in  
28 Sitka by the Department of Education and Early Development or the Department of Natural  
29 Resources are appropriated from the general fund to the Department of Education and Early  
30 Development, Mt. Edgecumbe boarding school, for maintenance and operations for the fiscal  
31 year ending June 30, 2023.

1 (d) The sum of \$1,647,500 is appropriated from the general fund to the Department of  
2 Education and Early Development for the purpose of expanding the number of seats from 20  
3 to 30 for Alaska under the medical education program described in AS 14.42.033, known as  
4 "WWAMI" (Washington, Wyoming, Alaska, Montana, and Idaho), for the fiscal years ending  
5 June 30, 2023, and June 30, 2024.

6 (e) In addition to the amounts appropriated in sec. 1 of this Act for the purpose of  
7 providing boarding stipends to districts under AS 14.16.200, the sum of \$4,267,900 is  
8 appropriated from the general fund to the Department of Education and Early Development  
9 for that purpose for the fiscal year ending June 30, 2023.

10 (f) The sum of \$57,000,000 is appropriated from the general fund to the Department  
11 of Education and Early Development to be distributed as grants to school districts according  
12 to the average daily membership for each district adjusted under AS 14.17.410(b)(1)(A) - (D)  
13 for the fiscal year ending June 30, 2023.

14 \* **Sec. 66.** DEPARTMENT OF FAMILY AND COMMUNITY SERVICES. (a) The  
15 unexpended and unobligated balance of the appropriation made in sec. 18(h), ch. 1, SSSLA  
16 2021, page 116, line 31 (Department of Health and Social Services, John H. Chafee foster  
17 care independence program), as amended by sec. 59(a)(18) of this Act, is reappropriated to  
18 the Department of Family and Community Services for the John H. Chafee foster care  
19 independence program for the fiscal years ending June 30, 2023, and June 30, 2024.

20 (b) The unexpended and unobligated balance of the appropriation made in sec. 18(h),  
21 ch. 1, SSSLA 2021, page 117, line 1 (Department of Health and Social Services, education  
22 training voucher program, as amended by sec. 59(a)(19) of this Act, is reappropriated to the  
23 Department of Family and Community Services for the education training voucher program  
24 for the fiscal years ending June 30, 2023, and June 30, 2024.

25 (c) The unexpended and unobligated balance of the appropriation made in sec. 18(h),  
26 ch. 1, SSSLA 2021, page 117, line 2 (Department of Health and Social Services, promoting  
27 safe and stable families program), as amended by sec. 59(a)(20) of this Act, is reappropriated  
28 to the Department of Family and Community Services for the promoting safe and stable  
29 families program for the fiscal years ending June 30, 2023, and June 30, 2024.

30 (d) The unexpended and unobligated balance, estimated to be \$1,079,900, of the  
31 appropriation made in sec. 60(b), ch. 1, SSSLA 2021 (Department of Health and Social

1 Services, children's services, activities associated with implementing the Family First  
2 Prevention Services Act, including developing plans of safe-care, prevention-focused models  
3 for families of infants with prenatal substance exposure), as amended by sec. 59(a)(22) of this  
4 Act, is reappropriated to the Department of Family and Community Services for activities  
5 associated with implementing the Family First Prevention Services Act, including developing  
6 plans of safe-care, prevention-focused models for families of infants with prenatal substance  
7 exposure for the fiscal years ending June 30, 2023, and June 30, 2024.

8 \* **Sec. 67.** DEPARTMENT OF HEALTH. (a) Federal receipts received during the fiscal  
9 year ending June 30, 2023, for Medicaid services are appropriated to the Department of  
10 Health, Medicaid services, for Medicaid services for the fiscal year ending June 30, 2023.

11 (b) The unexpended and unobligated balance of the appropriation made in sec. 18(c),  
12 ch. 1, SSSLA 2021, page 115, lines 1 - 3 (Department of Health and Social Services, United  
13 States Centers for Disease Control and Prevention funding for COVID-19 testing), as  
14 amended by sec. 59(a)(1) of this Act, is reappropriated to the Department of Health for United  
15 States Centers for Disease Control and Prevention funding for COVID-19 testing for the fiscal  
16 years ending June 30, 2023, and June 30, 2024.

17 (c) The unexpended and unobligated balance of the appropriation made in sec. 18(c),  
18 ch. 1, SSSLA 2021, page 115, lines 4 - 6 (Department of Health and Social Services, United  
19 States Centers for Disease Control and Prevention funding for COVID-19 vaccination  
20 activities), as amended by sec. 59(a)(2) of this Act, is reappropriated to the Department of  
21 Health for United States Centers for Disease Control and Prevention funding for COVID-19  
22 vaccination activities for the fiscal years ending June 30, 2023, and June 30, 2024.

23 (d) The unexpended and unobligated balance of the appropriation made in sec. 18(d),  
24 ch. 1, SSSLA 2021, page 115, line 13 (Department of Health and Social Services, child care  
25 block grant), as amended by sec. 59(a)(3) of this Act, is reappropriated to the Department of  
26 Health for child care block grants for the fiscal years ending June 30, 2023, and June 30,  
27 2024.

28 (e) The unexpended and unobligated balance of the appropriation made in sec. 18(d),  
29 ch. 1, SSSLA 2021, page 115, line 14 (Department of Health and Social Services, child care  
30 stabilization grant), as amended by sec. 59(a)(4) of this Act, is reappropriated to the  
31 Department of Health for child care stabilization grants for the fiscal years ending June 30,

1 2023, and June 30, 2024.

2 (f) The unexpended and unobligated balance of the appropriation made in sec. 18(d),  
3 ch. 1, SSSLA 2021, page 115, lines 15 - 16 (Department of Health and Social Services, child  
4 nutrition pandemic electronic benefit transfer program), as amended by sec. 59(a)(5) of this  
5 Act, is reappropriated to the Department of Health for the child nutrition pandemic electronic  
6 benefit transfer program for the fiscal years ending June 30, 2023, and June 30, 2024.

7 (g) The unexpended and unobligated balance of the appropriation made in sec. 18(d),  
8 ch. 1, SSSLA 2021, page 115, lines 17 - 18 (Department of Health and Social Services,  
9 pandemic temporary assistance for needy families), as amended by sec. 59(a)(6) of this Act, is  
10 reappropriated to the Department of Health for pandemic temporary assistance for needy  
11 families for the fiscal years ending June 30, 2023, and June 30, 2024.

12 (h) The unexpended and unobligated balance of the appropriation made in sec. 18(e),  
13 ch. 1, SSSLA 2021, page 115, lines 25 - 26 (Department of Health and Social Services, family  
14 violence and child abuse prevention and treatment funding), as amended by sec. 59(a)(7) of  
15 this Act, is reappropriated to the Department of Health for family violence and child abuse  
16 prevention and treatment funding for the fiscal years ending June 30, 2023, and June 30,  
17 2024.

18 (i) The unexpended and unobligated balance of the appropriation made in sec. 18(e),  
19 ch. 1, SSSLA 2021, page 115, line 27 (Department of Health and Social Services, low income  
20 home energy assistance program), as amended by sec. 59(a)(8) of this Act, is reappropriated  
21 to the Department of Health for the low income home energy assistance program for the fiscal  
22 years ending June 30, 2023, and June 30, 2024.

23 (j) The unexpended and unobligated balance of the appropriation made in sec. 18(e),  
24 ch. 1, SSSLA 2021, page 115, line 28 (Department of Health and Social Services, mental  
25 health treatment funding), as amended by sec. 59(a)(9) of this Act, is reappropriated to the  
26 Department of Health for mental health treatment funding for the fiscal years ending June 30,  
27 2023, and June 30, 2024.

28 (k) The unexpended and unobligated balance of the appropriation made in sec. 18(e),  
29 ch. 1, SSSLA 2021, page 115, lines 29 - 30 (Department of Health and Social Services, senior  
30 and disabilities services community-based grants), as amended by sec. 59(a)(10) of this Act,  
31 is reappropriated to the Department of Health for senior and disabilities services community-

1 based grants for the fiscal years ending June 30, 2023, and June 30, 2024.

2 (l) The unexpended and unobligated balance of the appropriation made in sec. 18(e),  
3 ch. 1, SSSLA 2021, page 115, line 31, through page 116, line 1 (Department of Health and  
4 Social Services, special supplemental nutrition program for women, infants, and children  
5 benefit improvements), as amended by sec. 59(a)(11) of this Act, is reappropriated to the  
6 Department of Health for special supplemental nutrition program for women, infants, and  
7 children benefit improvements for the fiscal years ending June 30, 2023, and June 30, 2024.

8 (m) The unexpended and unobligated balance of the appropriation made in sec. 18(e),  
9 ch. 1, SSSLA 2021, page 116, line 2 (Department of Health and Social Services, substance  
10 abuse block grant funding), as amended by sec. 59(a)(12) of this Act, is reappropriated to the  
11 Department of Health for substance abuse block grant funding for the fiscal years ending  
12 June 30, 2023, and June 30, 2024.

13 (n) The unexpended and unobligated balance of the appropriation made in sec. 18(e),  
14 ch. 1, SSSLA 2021, page 116, lines 3 - 4 (Department of Health and Social Services, United  
15 States Centers for Disease Control and Prevention funding for COVID-19 testing), as  
16 amended by sec. 59(a)(13) of this Act, is reappropriated to the Department of Health for  
17 United States Centers for Disease Control and Prevention funding for COVID-19 testing for  
18 the fiscal years ending June 30, 2023, and June 30, 2024.

19 (o) The unexpended and unobligated balance of the appropriation made in sec. 18(e),  
20 ch. 1, SSSLA 2021, page 116, lines 5 - 7 (Department of Health and Social Services, United  
21 States Centers for Disease Control and Prevention for COVID-19 vaccination activities), as  
22 amended by sec. 59(a)(14) of this Act, is reappropriated to the Department of Health for  
23 United States Centers for Disease Control and Prevention for COVID-19 vaccination  
24 activities for the fiscal years ending June 30, 2023, and June 30, 2024.

25 (p) The unexpended and unobligated balance of the appropriation made in sec. 18(f),  
26 ch. 1, SSSLA 2021 (Department of Health and Social Services, building epidemiology and  
27 laboratory capacity), as amended by sec. 59(a)(15) of this Act, is reappropriated to the  
28 Department of Health for building epidemiology and laboratory capacity for the fiscal years  
29 ending June 30, 2023, and June 30, 2024.

30 (q) The unexpended and unobligated balance of the appropriation made in sec. 18(h),  
31 ch. 1, SSSLA 2021, page 116, line 29 (Department of Health and Social Services, Alaska

1 prescription drug monitoring program), as amended by sec. 59(a)(16) of this Act, is  
2 reappropriated to the Department of Health for the Alaska prescription drug monitoring  
3 program for the fiscal years ending June 30, 2023, and June 30, 2024.

4 (r) The unexpended and unobligated balance of the appropriation made in sec. 18(h),  
5 ch. 1, SSSLA 2021, page 116, line 30 (Department of Health and Social Services, building  
6 epidemiology and laboratory capacity), as amended by sec. 59(a)(17) of this Act, is  
7 reappropriated to the Department of Health for building epidemiology and laboratory capacity  
8 for the fiscal years ending June 30, 2023, and June 30, 2024.

9 (s) The unexpended and unobligated balance of the appropriation made in sec. 18(i),  
10 ch. 1, SSSLA 2021 (Department of Health and Social Services, child care and development  
11 block grant), as amended by sec. 59(a)(21) of this Act, is reappropriated to the Department of  
12 Health for child care and development block grants for the fiscal years ending June 30, 2023,  
13 and June 30, 2024.

14 (t) The unexpended and unobligated balance of the appropriation made in sec. 60(c),  
15 ch. 1, SSSLA 2021 (Department of Health and Social Services, division of public health,  
16 emergency programs, responding to and mitigating the risk of a COVID-19 outbreak in the  
17 state), as amended by sec. 59(a)(23) of this Act, is reappropriated to the Department of Health  
18 for responding to and mitigating the risk of a COVID-19 outbreak in the state for the fiscal  
19 years ending June 30, 2023, and June 30, 2024.

20 (u) The unexpended and unobligated balance of the appropriation made in sec. 13(a),  
21 ch. 1, TSSLA 2021 (Department of Health and Social Services, division of public health,  
22 emergency programs, detect and mitigate COVID-19 in confinement facilities), as amended  
23 by sec. 59(a)(24) of this Act, is reappropriated to the Department of Health for detecting and  
24 mitigating COVID-19 in confinement facilities for the fiscal years ending June 30, 2023, and  
25 June 30, 2024.

26 (v) The unexpended and unobligated balance, not to exceed \$50,222,500, of the  
27 appropriation made in sec. 13(b), ch. 1, TSSLA 2021 (Department of Health and Social  
28 Services, division of public health, emergency programs, mitigate and respond to the novel  
29 coronavirus disease (COVID-19)), as amended by sec. 59(b) of this Act, is reappropriated to  
30 the Department of Health for mitigating and responding to the novel coronavirus disease  
31 (COVID-19) for the fiscal years ending June 30, 2023, June 30, 2024, and June 30, 2025.

1 (w) The unexpended and unobligated balance of the appropriation made in sec. 13(c),  
2 ch. 1, TSSLA 2021 (Department of Health and Social Services, senior and disabilities  
3 services, supporting home-delivered meals to seniors, family caregiver support, and  
4 transportation services and expanding access to COVID-19 vaccines to seniors and  
5 individuals with disabilities), as amended by sec. 59(a)(25) of this Act, is reappropriated to  
6 the Department of Health for supporting home-delivered meals to seniors, family caregiver  
7 support, and transportation services and expanding access to COVID-19 vaccines to seniors  
8 and individuals with disabilities for the fiscal years ending June 30, 2023, and June 30, 2024.

9 (x) Section 60(d), ch. 1, SSSLA 2021, as amended by sec. 23(b) of this Act, is  
10 amended to read:

11 (d) The sum of \$40,000,000 is appropriated from federal receipts received  
12 from sec. 9901, P.L. 117-2 (Subtitle M—Coronavirus State and Local Fiscal Recovery  
13 Funds, American Rescue Plan Act of 2021) to the Department of Health [AND  
14 SOCIAL SERVICES], division of public health, emergency programs, for responding  
15 to public health matters arising from COVID-19 for the fiscal years ending [JUNE 30,  
16 2022,] June 30, 2023, June 30, 2024, and June 30, 2025.

17 \* **Sec. 68. DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT.** (a) If the  
18 amount necessary to pay benefit payments from the workers' compensation benefits guaranty  
19 fund (AS 23.30.082) exceeds the amount appropriated for that purpose in sec. 1 of this Act,  
20 the additional amount necessary to pay those benefit payments is appropriated for that  
21 purpose from the workers' compensation benefits guaranty fund (AS 23.30.082) to the  
22 Department of Labor and Workforce Development, workers' compensation benefits guaranty  
23 fund allocation, for the fiscal year ending June 30, 2023.

24 (b) If the amount necessary to pay benefit payments from the second injury fund  
25 (AS 23.30.040(a)) exceeds the amount appropriated for that purpose in sec. 1 of this Act, the  
26 additional amount necessary to make those benefit payments is appropriated for that purpose  
27 from the second injury fund (AS 23.30.040(a)) to the Department of Labor and Workforce  
28 Development, second injury fund allocation, for the fiscal year ending June 30, 2023.

29 (c) If the amount necessary to pay benefit payments from the fishermen's fund  
30 (AS 23.35.060) exceeds the amount appropriated for that purpose in sec. 1 of this Act, the  
31 additional amount necessary to make those benefit payments is appropriated for that purpose

1 from the fishermen's fund (AS 23.35.060) to the Department of Labor and Workforce  
2 Development, fishermen's fund allocation, for the fiscal year ending June 30, 2023.

3 (d) If the amount of contributions received by the Alaska Vocational Technical Center  
4 under AS 21.96.070, AS 43.20.014, AS 43.55.019, AS 43.56.018, AS 43.65.018,  
5 AS 43.75.018, and AS 43.77.045 during the fiscal year ending June 30, 2023, exceeds the  
6 amount appropriated to the Department of Labor and Workforce Development, Alaska  
7 Vocational Technical Center, in sec. 1 of this Act, the additional contributions are  
8 appropriated to the Department of Labor and Workforce Development, Alaska Vocational  
9 Technical Center, Alaska Vocational Technical Center allocation, for the purpose of operating  
10 the center, for the fiscal year ending June 30, 2023.

11 (e) The sum of \$10,000,000 is appropriated from the general fund to the Department  
12 of Labor and Workforce Development for the fiscal years ending June 30, 2023, and June 30,  
13 2024, for the following purposes and in the following amounts:

PURPOSE	AMOUNT
Employment and training services, workforce development, state training and employment program	\$4,600,000
Alaska technical and vocational education program, to be distributed according to AS 23.15.835(d)	2,600,000
Alaska Workforce Investment Board, construction academies	1,800,000
Division of employment and training services, individual training accounts program	1,000,000

23 \* **Sec. 69.** DEPARTMENT OF LAW. (a) The sum of \$2,000,000 is appropriated from the  
24 general fund to the Department of Law, civil division, for litigation relating to the defense of  
25 rights to develop and protect the state's natural resources, to access land, to manage its fish  
26 and wildlife resources, and to protect state sovereignty in the fiscal years ending June 30,  
27 2023, June 30, 2024, and June 30, 2025.

28 (b) The sum of \$500,000 is appropriated from the general fund to the Department of  
29 Law, civil division, for litigation relating to the Tongass National Forest and protecting state  
30 sovereignty in the fiscal years ending June 30, 2023, June 30, 2024, and June 30, 2025.

31 (c) It is the intent of the legislature that funds from the appropriations made in (a) and



(b) of this section may not be used for any action that may erode existing federal or state subsistence rights.

\* **Sec. 70.** DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS. (a) Five percent of the average ending market value in the Alaska veterans' memorial endowment fund (AS 37.14.700) for the fiscal years ending June 30, 2020, June 30, 2021, and June 30, 2022, estimated to be \$10,866, is appropriated from the Alaska veterans' memorial endowment fund (AS 37.14.700) to the Department of Military and Veterans' Affairs for the purposes specified in AS 37.14.730(b) for the fiscal year ending June 30, 2023.

(b) The amount of the fees collected under AS 28.10.421(d) during the fiscal year ending June 30, 2023, for the issuance of special request license plates commemorating Alaska veterans, less the cost of issuing the license plates, estimated to be \$7,800, is appropriated from the general fund to the Department of Military and Veterans' Affairs for maintenance, repair, replacement, enhancement, development, and construction of veterans' memorials for the fiscal year ending June 30, 2023.

\* **Sec. 71.** DEPARTMENT OF NATURAL RESOURCES. (a) The interest earned during the fiscal year ending June 30, 2023, on the reclamation bond posted by Cook Inlet Energy for operation of an oil production platform in Cook Inlet under lease with the Department of Natural Resources, estimated to be \$150,000, is appropriated from interest held in the general fund to the Department of Natural Resources for the purpose of the bond for the fiscal year ending June 30, 2023.

(b) The amount necessary for the purposes specified in AS 37.14.820 for the fiscal year ending June 30, 2023, estimated to be \$30,000, is appropriated from the mine reclamation trust fund operating account (AS 37.14.800(a)) to the Department of Natural Resources for those purposes for the fiscal year ending June 30, 2023.

(c) The amount received in settlement of a claim against a bond guaranteeing the reclamation of state, federal, or private land, including the plugging or repair of a well, estimated to be \$50,000, is appropriated to the Department of Natural Resources for the purpose of reclaiming the state, federal, or private land affected by a use covered by the bond for the fiscal year ending June 30, 2023.

(d) Federal receipts received for fire suppression during the fiscal year ending June 30, 2023, estimated to be \$20,500,000, are appropriated to the Department of Natural

1 Resources for fire suppression activities for the fiscal year ending June 30, 2023.

2 \* **Sec. 72.** DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES. (a) The  
3 proceeds received from the sale of Alaska marine highway system assets during the fiscal  
4 year ending June 30, 2023, are appropriated to the Alaska marine highway system vessel  
5 replacement fund (AS 37.05.550).

6 (b) If the amount of federal receipts that are received by the Department of  
7 Transportation for the calendar year beginning January 1, 2023, and ending December 31,  
8 2023, fall short of the amount appropriated in sec. 5 of this Act, the amount of the shortfall,  
9 not to exceed \$20,000,000, is appropriated from the general fund to the Department of  
10 Transportation and Public Facilities, Alaska marine highway system, for operation of marine  
11 highway vessels for the calendar year beginning January 1, 2023, and ending December 31,  
12 2023.

13 \* **Sec. 73.** OFFICE OF THE GOVERNOR. (a) The sum of \$1,966,000 is appropriated from  
14 the general fund to the Office of the Governor, division of elections, for costs associated with  
15 conducting the statewide primary and general elections for the fiscal years ending June 30,  
16 2023, and June 30, 2024.

17 (b) If the 2023 fiscal year-to-date average price of Alaska North Slope crude oil  
18 exceeds \$70 a barrel on December 1, 2022, the amount of money corresponding to the 2023  
19 fiscal year-to-date average price, rounded to the nearest dollar, as set out in the table in (c) of  
20 this section, estimated to be \$27,000,000, is appropriated from the general fund to the Office  
21 of the Governor for distribution to state agencies to offset increased fuel and utility costs for  
22 the fiscal year ending June 30, 2023.

23 (c) The following table shall be used in determining the amount of the appropriation  
24 made in (b) of this section:

25	2023 FISCAL	
26	YEAR-TO-DATE	
27	AVERAGE PRICE	
28	OF ALASKA NORTH	
29	SLOPE CRUDE OIL	AMOUNT
30	\$125 or more	\$27,000,000
31	124	26,500,000

1	123	26,000,000
2	122	25,500,000
3	121	25,000,000
4	120	24,500,000
5	119	24,000,000
6	118	23,500,000
7	117	23,000,000
8	116	22,500,000
9	115	22,000,000
10	114	21,500,000
11	113	21,000,000
12	112	20,500,000
13	111	20,000,000
14	110	19,500,000
15	109	19,000,000
16	108	18,500,000
17	107	18,000,000
18	106	17,500,000
19	105	17,000,000
20	104	16,500,000
21	103	16,000,000
22	102	15,500,000
23	101	15,000,000
24	100	14,500,000
25	99	14,000,000
26	98	13,500,000
27	97	13,000,000
28	96	12,500,000
29	95	12,000,000
30	94	11,500,000
31	93	11,000,000

1	92	10,500,000
2	91	10,000,000
3	90	9,500,000
4	89	9,000,000
5	88	8,500,000
6	87	8,000,000
7	86	7,500,000
8	85	7,000,000
9	84	6,500,000
10	83	6,000,000
11	82	5,500,000
12	81	5,000,000
13	80	4,500,000
14	79	4,000,000
15	78	3,500,000
16	77	3,000,000
17	76	2,500,000
18	75	2,000,000
19	74	1,500,000
20	73	1,000,000
21	72	500,000
22	71	0

(d) It is the intent of the legislature that a payment under (b) of this section be used to offset the effects of higher fuel and utility costs for the fiscal year ending June 30, 2023.

(e) The governor shall allocate amounts appropriated in (b) of this section as follows:

(1) to the Department of Transportation and Public Facilities, 65 percent of the total plus or minus 10 percent;

(2) to the University of Alaska, 15 percent of the total plus or minus three percent;

(3) to the Department of Family and Community Services and the Department of Corrections, not more than five percent each of the total amount appropriated;

(4) to any other state agency, not more than four percent of the total amount appropriated;

(5) the aggregate amount allocated may not exceed 100 percent of the appropriation.

(f) The sum of \$6,305,800 is appropriated from the general fund to the Office of the Governor, executive operations, for the period beginning January 1, 2023, and ending June 30, 2023, and is allocated as follows:

PURPOSE	AMOUNT
(1) Executive office	\$5,680,700
(2) Governor's house	375,100
(3) Contingency fund	250,000

\* **Sec. 74. UNIVERSITY OF ALASKA.** The sum of \$29,800,000 is appropriated from the general fund to the University of Alaska for responding to the negative economic impacts of COVID-19 for the fiscal years ending June 30, 2023, and June 30, 2024, for the following purposes and in the following amounts:

PURPOSE	AMOUNT
University of Alaska drone program	\$10,000,000
Critical minerals and rare earth elements research and development	7,800,000
Heavy oil recovery method research and development	5,000,000
Mariculture research and development	7,000,000

\* **Sec. 75. BANKCARD SERVICE FEES.** (a) The amount necessary to compensate the collector or trustee of fees, licenses, taxes, or other money belonging to the state during the fiscal year ending June 30, 2023, is appropriated for that purpose for the fiscal year ending June 30, 2023, to the agency authorized by law to generate the revenue, from the funds and accounts in which the payments received by the state are deposited. In this subsection, "collector or trustee" includes vendors retained by the state on a contingency fee basis.

(b) The amount necessary to compensate the provider of bankcard or credit card services to the state during the fiscal year ending June 30, 2023, is appropriated for that purpose for the fiscal year ending June 30, 2023, to each agency of the executive, legislative,

1 and judicial branches that accepts payment by bankcard or credit card for licenses, permits,  
2 goods, and services provided by that agency on behalf of the state, from the funds and  
3 accounts in which the payments received by the state are deposited.

4 \* **Sec. 76. DEBT AND OTHER OBLIGATIONS.** (a) The amount required to be paid by the  
5 state for the principal of and interest on all issued and outstanding state-guaranteed bonds,  
6 estimated to be \$0, is appropriated from the general fund to the Alaska Housing Finance  
7 Corporation for payment of the principal of and interest on those bonds for the fiscal year  
8 ending June 30, 2023.

9 (b) The amount necessary for payment of principal and interest, redemption premium,  
10 and trustee fees, if any, on bonds issued by the state bond committee under AS 37.15.560 for  
11 the fiscal year ending June 30, 2023, estimated to be \$2,204,500, is appropriated from interest  
12 earnings of the Alaska clean water fund (AS 46.03.032(a)) to the Alaska clean water fund  
13 revenue bond redemption fund (AS 37.15.565).

14 (c) The amount necessary for payment of principal and interest, redemption premium,  
15 and trustee fees, if any, on bonds issued by the state bond committee under AS 37.15.560 for  
16 the fiscal year ending June 30, 2023, estimated to be \$2,724,500, is appropriated from interest  
17 earnings of the Alaska drinking water fund (AS 46.03.036(a)) to the Alaska drinking water  
18 fund revenue bond redemption fund (AS 37.15.565).

19 (d) The sum of \$3,581,314 is appropriated from the general fund to the following  
20 agencies for the fiscal year ending June 30, 2023, for payment of debt service on outstanding  
21 debt authorized by AS 14.40.257, AS 29.60.700, and AS 42.45.065, respectively, for the  
22 following projects:

23 AGENCY AND PROJECT	APPROPRIATION AMOUNT
24 (1) University of Alaska	\$1,222,321
25 Anchorage Community and Technical	
26 College Center	
27 Juneau Readiness Center/UAS Joint Facility	
28 (2) Department of Transportation and Public Facilities	
29 (A) Matanuska-Susitna Borough	707,700
30 (deep water port and road upgrade)	
31 (B) Aleutians East Borough/False Pass	169,930

1	(small boat harbor)	
2	(C) City of Valdez (harbor renovations)	206,750
3	(D) Aleutians East Borough/Akutan	218,558
4	(small boat harbor)	
5	(E) Fairbanks North Star Borough	339,830
6	(Eielson AFB Schools, major	
7	maintenance and upgrades)	
8	(F) City of Unalaska (Little South America	365,045
9	(LSA) Harbor)	
10	(3) Alaska Energy Authority	
11	Copper Valley Electric Association	351,180
12	(cogeneration projects)	

13 (e) The amount necessary for payment of lease payments and trustee fees relating to  
14 certificates of participation issued for real property for the fiscal year ending June 30, 2023,  
15 estimated to be \$2,891,750, is appropriated from the general fund to the state bond committee  
16 for that purpose for the fiscal year ending June 30, 2023.

17 (f) The sum of \$3,303,500 is appropriated from the general fund to the Department of  
18 Administration for the purpose of paying the obligation of the Linny Pacillo Parking Garage  
19 in Anchorage to the Alaska Housing Finance Corporation for the fiscal year ending June 30,  
20 2023.

21 (g) The following amounts are appropriated to the state bond committee from the  
22 specified sources, and for the stated purposes, for the fiscal year ending June 30, 2023:

23 (1) the amount necessary for payment of debt service and accrued interest on  
24 outstanding State of Alaska general obligation bonds, series 2010A, estimated to be  
25 \$2,194,004, from the amount received from the United States Treasury as a result of the  
26 American Recovery and Reinvestment Act of 2009, Build America Bond credit payments due  
27 on the series 2010A general obligation bonds;

28 (2) the amount necessary for payment of debt service and accrued interest on  
29 outstanding State of Alaska general obligation bonds, series 2010A, after the payment made  
30 in (1) of this subsection, estimated to be \$4,560,935, from the general fund for that purpose;

31 (3) the amount necessary for payment of debt service and accrued interest on

1 outstanding State of Alaska general obligation bonds, series 2010B, estimated to be  
2 \$2,227,757, from the amount received from the United States Treasury as a result of the  
3 American Recovery and Reinvestment Act of 2009, Qualified School Construction Bond  
4 interest subsidy payments due on the series 2010B general obligation bonds;

5 (4) the amount necessary for payment of debt service and accrued interest on  
6 outstanding State of Alaska general obligation bonds, series 2010B, after the payment made in  
7 (3) of this subsection, estimated to be \$176,143, from the general fund for that purpose;

8 (5) the amount necessary for payment of debt service and accrued interest on  
9 outstanding State of Alaska general obligation bonds, series 2012A, estimated to be  
10 \$7,476,250, from the general fund for that purpose;

11 (6) the amount necessary for payment of debt service and accrued interest on  
12 outstanding State of Alaska general obligation bonds, series 2013A, estimated to be \$427,658,  
13 from the amount received from the United States Treasury as a result of the American  
14 Recovery and Reinvestment Act of 2009, Qualified School Construction Bond interest  
15 subsidy payments due on the series 2013A general obligation bonds;

16 (7) the amount necessary for payment of debt service and accrued interest on  
17 outstanding State of Alaska general obligation bonds, series 2013A, after the payments made  
18 in (6) of this subsection, estimated to be \$33,181, from the general fund for that purpose;

19 (8) the amount necessary for payment of debt service and accrued interest on  
20 outstanding State of Alaska general obligation bonds, series 2013B estimated to be  
21 \$16,168,625, from the general fund for that purpose;

22 (9) the amount necessary for payment of debt service and accrued interest on  
23 outstanding State of Alaska general obligation bonds, series 2015B, estimated to be  
24 \$12,078,000, from the general fund for that purpose;

25 (10) the amount necessary for payment of debt service and accrued interest on  
26 outstanding State of Alaska general obligation bonds, series 2016A, estimated to be  
27 \$10,610,250, from the general fund for that purpose;

28 (11) the amount necessary for payment of debt service and accrued interest on  
29 outstanding State of Alaska general obligation bonds, series 2016B, estimated to be  
30 \$10,414,875, from the general fund for that purpose;

31 (12) the sum of \$17,830 from the investment earnings on the bond proceeds



1 deposited in the capital project funds for the series 2020A general obligation bonds, for  
2 payment of debt service and accrued interest on outstanding State of Alaska general  
3 obligation bonds, series 2020A;

4 (13) the amount necessary for payment of debt service and accrued interest on  
5 outstanding State of Alaska general obligation bonds, series 2020A, estimated to be  
6 \$7,169,875, from the general fund for that purpose;

7 (14) the amount necessary for payment of trustee fees on outstanding State of  
8 Alaska general obligation bonds, series 2010A, 2010B, 2012A, 2013A, 2013B, 2015B,  
9 2016A, 2016B, and 2020A, estimated to be \$3,000, from the general fund for that purpose;

10 (15) the amount necessary for the purpose of authorizing payment to the  
11 United States Treasury for arbitrage rebate on outstanding State of Alaska general obligation  
12 bonds, estimated to be \$50,000, from the general fund for that purpose;

13 (16) if the proceeds of state general obligation bonds issued are temporarily  
14 insufficient to cover costs incurred on projects approved for funding with these proceeds, the  
15 amount necessary to prevent this cash deficiency, from the general fund, contingent on  
16 repayment to the general fund as soon as additional state general obligation bond proceeds  
17 have been received by the state; and

18 (17) if the amount necessary for payment of debt service and accrued interest  
19 on outstanding State of Alaska general obligation bonds exceeds the amounts appropriated in  
20 this subsection, the additional amount necessary to pay the obligations, from the general fund  
21 for that purpose.

22 (h) The following amounts are appropriated to the state bond committee from the  
23 specified sources, and for the stated purposes, for the fiscal year ending June 30, 2023:

24 (1) the amount necessary for debt service on outstanding international airports  
25 revenue bonds, estimated to be \$5,200,000, from the collection of passenger facility charges  
26 approved by the Federal Aviation Administration at the Alaska international airports system;

27 (2) the amount necessary for payment of debt service and trustee fees on  
28 outstanding international airports revenue bonds, after the payment made in (1) of this  
29 subsection, estimated to be \$12,601,550, from the International Airports Revenue Fund  
30 (AS 37.15.430(a)) for that purpose; and

31 (3) the amount necessary for payment of principal and interest, redemption

1 premiums, and trustee fees, if any, associated with the early redemption of international  
2 airports revenue bonds authorized under AS 37.15.410 - 37.15.550, estimated to be  
3 \$10,000,000, from the International Airports Revenue Fund (AS 37.15.430(a)).

4 (i) If federal receipts are temporarily insufficient to cover international airports  
5 system project expenditures approved for funding with those receipts, the amount necessary to  
6 prevent that cash deficiency, estimated to be \$0, is appropriated from the general fund to the  
7 International Airports Revenue Fund (AS 37.15.430(a)) for the fiscal year ending June 30,  
8 2023, contingent on repayment to the general fund, plus interest, as soon as additional federal  
9 receipts have been received by the state for that purpose.

10 (j) The amount of federal receipts deposited in the International Airports Revenue  
11 Fund (AS 37.15.430(a)) necessary to reimburse the general fund for international airports  
12 system project expenditures, plus interest, estimated to be \$0, is appropriated from the  
13 International Airports Revenue Fund (AS 37.15.430(a)) to the general fund.

14 (k) The amount necessary for payment of obligations and fees for the Goose Creek  
15 Correctional Center, estimated to be \$16,170,413, is appropriated from the general fund to the  
16 Department of Administration for that purpose for the fiscal year ending June 30, 2023.

17 (l) The amount necessary, estimated to be \$78,975,672, is appropriated to the  
18 Department of Education and Early Development for state aid for costs of school construction  
19 under AS 14.11.100 for the fiscal year ending June 30, 2023, from the following sources:

20 (1) \$15,100,000 from the School Fund (AS 43.50.140);

21 (2) the amount necessary, after the appropriation made in (1) of this  
22 subsection, estimated to be \$63,875,672, from the general fund.

23 \* **Sec. 77. FEDERAL AND OTHER PROGRAM RECEIPTS.** (a) Federal receipts,  
24 designated program receipts under AS 37.05.146(b)(3), information services fund program  
25 receipts under AS 44.21.045(b), Exxon Valdez oil spill trust receipts under  
26 AS 37.05.146(b)(4), receipts of the Alaska Housing Finance Corporation, receipts of the  
27 Alaska marine highway system fund under AS 19.65.060(a), receipts of the University of  
28 Alaska under AS 37.05.146(b)(2), receipts of the highways equipment working capital fund  
29 under AS 44.68.210, and receipts of commercial fisheries test fishing operations under  
30 AS 37.05.146(c)(20) that are received during the fiscal year ending June 30, 2023, and that  
31 exceed the amounts appropriated by this Act are appropriated conditioned on compliance with

1 the program review provisions of AS 37.07.080(h). Receipts received under this subsection  
2 during the fiscal year ending June 30, 2023, do not include the balance of a state fund on  
3 June 30, 2022.

4 (b) If federal or other program receipts under AS 37.05.146 and AS 44.21.045(b) that  
5 are received during the fiscal year ending June 30, 2023, exceed the amounts appropriated by  
6 this Act, the appropriations from state funds for the affected program shall be reduced by the  
7 excess if the reductions are consistent with applicable federal statutes.

8 (c) If federal or other program receipts under AS 37.05.146 and AS 44.21.045(b) that  
9 are received during the fiscal year ending June 30, 2023, fall short of the amounts  
10 appropriated by this Act, the affected appropriation is reduced by the amount of the shortfall  
11 in receipts.

12 (d) The amount of designated program receipts under AS 37.05.146(b)(3)  
13 appropriated in this Act includes the unexpended and unobligated balance on June 30, 2022,  
14 of designated program receipts collected under AS 37.05.146(b)(3) for that purpose.

15 (e) Notwithstanding (a) of this section, an appropriation item for the fiscal year  
16 ending June 30, 2023, may not be increased under AS 37.07.080(h)

17 (1) based on

18 (A) receipt of additional designated program receipts or additional  
19 federal receipts received by the Alaska Gasline Development Corporation;

20 (B) receipt of additional federal or other program receipts related to  
21 broadband;

22 (C) receipt of additional federal receipts from sec. 9901, P.L. 117-2  
23 (Subtitle M—Coronavirus State and Local Fiscal Recovery Funds, American Rescue  
24 Plan Act of 2021); or

25 (D) funds appropriated by the 117th Congress or the 118th Congress

26 (i) related to climate or energy;

27 (ii) related to novel coronavirus disease (COVID-19) or  
28 economic recovery; or

29 (iii) for natural gas pipeline expenditures; or

30 (2) by more than \$10,000,000.

31 (f) Subsection (e) of this section does not apply to

1 (1) an appropriation item that was increased based on compliance with  
2 AS 37.07.080(h) before the effective date of (e) of this section; or

3 (2) an appropriation item that is passed through the state to a community in the  
4 state.

5 \* **Sec. 78. FUND CAPITALIZATION.** (a) The portions of the fees listed in this subsection  
6 that are collected during the fiscal year ending June 30, 2023, estimated to be \$14,000, are  
7 appropriated to the Alaska children's trust grant account (AS 37.14.205(a)):

8 (1) fees collected under AS 18.50.225, less the cost of supplies, for the  
9 issuance of heirloom birth certificates;

10 (2) fees collected under AS 18.50.272, less the cost of supplies, for the  
11 issuance of heirloom marriage certificates;

12 (3) fees collected under AS 28.10.421(d) for the issuance of special request  
13 Alaska children's trust license plates, less the cost of issuing the license plates.

14 (b) The amount received from fees assessed under AS 05.25.096(a)(5) and (6), civil  
15 penalties collected under AS 30.30.015, the sale of vessels under AS 30.30, and donations and  
16 other receipts deposited under AS 30.30.096 as program receipts during the fiscal year ending  
17 June 30, 2023, less the amount of those program receipts appropriated to the Department of  
18 Administration, division of motor vehicles, for the fiscal year ending June 30, 2023, estimated  
19 to be \$30,000, is appropriated to the derelict vessel prevention program fund (AS 30.30.096).

20 (c) The amount of federal receipts received for disaster relief during the fiscal year  
21 ending June 30, 2023, estimated to be \$9,000,000, is appropriated to the disaster relief fund  
22 (AS 26.23.300(a)).

23 (d) Twenty-five percent of the donations received under AS 43.23.230(b), estimated  
24 to be \$213,050, is appropriated to the dividend raffle fund (AS 43.23.230(a)).

25 (e) The amount of municipal bond bank receipts determined under AS 44.85.270(h) to  
26 be available for transfer by the Alaska Municipal Bond Bank Authority for the fiscal year  
27 ending June 30, 2022, estimated to be \$0, is appropriated to the Alaska municipal bond bank  
28 authority reserve fund (AS 44.85.270(a)).

29 (f) If the Alaska Municipal Bond Bank Authority must draw on the Alaska municipal  
30 bond bank authority reserve fund (AS 44.85.270(a)) because of a default by a borrower, an  
31 amount equal to the amount drawn from the reserve is appropriated from the general fund to

1 the Alaska municipal bond bank authority reserve fund (AS 44.85.270(a)).

2 (g) The sum of \$30,000,000 is appropriated from the power cost equalization  
3 endowment fund (AS 42.45.070(a)) to the community assistance fund (AS 29.60.850).

4 (h) The amount necessary to fund the total amount for the fiscal year ending June 30,  
5 2023, of state aid calculated under the public school funding formula under AS 14.17.410(b),  
6 estimated to be \$1,174,560,675, is appropriated to the public education fund (AS 14.17.300)  
7 from the following sources:

8 (1) \$31,288,875 from the public school trust fund (AS 37.14.110(a));

9 (2) the amount necessary, after the appropriation made in (1) of this  
10 subsection, estimated to be \$1,143,271,800, from the general fund.

11 (i) The amount necessary to fund transportation of students under AS 14.09.010 for  
12 the fiscal year ending June 30, 2023, estimated to be \$71,803,000, is appropriated from the  
13 general fund to the public education fund (AS 14.17.300).

14 (j) The sum of \$32,784,000 is appropriated from the general fund to the regional  
15 educational attendance area and small municipal school district school fund  
16 (AS 14.11.030(a)).

17 (k) The amount necessary to pay medical insurance premiums for eligible surviving  
18 dependents under AS 39.60.040 and the costs of the Department of Public Safety associated  
19 with administering the peace officer and firefighter survivors' fund (AS 39.60.010) for the  
20 fiscal year ending June 30, 2023, estimated to be \$30,000, is appropriated from the general  
21 fund to the peace officer and firefighter survivors' fund (AS 39.60.010) for that purpose.

22 (l) The amount of federal receipts awarded or received for capitalization of the Alaska  
23 clean water fund (AS 46.03.032(a)) during the fiscal year ending June 30, 2023, less the  
24 amount expended for administering the loan fund and other eligible activities, estimated to be  
25 \$30,410,900, is appropriated from federal receipts to the Alaska clean water fund  
26 (AS 46.03.032(a)).

27 (m) The amount necessary to match federal receipts awarded or received for  
28 capitalization of the Alaska clean water fund (AS 46.03.032(a)) during the fiscal year ending  
29 June 30, 2023, estimated to be \$4,206,500, is appropriated to the Alaska clean water fund  
30 (AS 46.03.032(a)) from the following sources:

31 (1) the amount available for appropriation from Alaska clean water fund

1 revenue bond receipts, estimated to be \$2,200,000;

2 (2) the amount necessary, after the appropriation made in (1) of this  
3 subsection, estimated to be \$2,006,500, from the general fund.

4 (n) The amount of federal receipts awarded or received for capitalization of the  
5 Alaska drinking water fund (AS 46.03.036(a)) during the fiscal year ending June 30, 2023,  
6 less the amount expended for administering the loan fund and other eligible activities,  
7 estimated to be \$51,776,700, is appropriated from federal receipts to the Alaska drinking  
8 water fund (AS 46.03.036(a)).

9 (o) The amount necessary to match federal receipts awarded or received for  
10 capitalization of the Alaska drinking water fund (AS 46.03.036(a)) during the fiscal year  
11 ending June 30, 2023, estimated to be \$4,515,500, is appropriated to the Alaska drinking  
12 water fund (AS 46.03.036(a)) from the following sources:

13 (1) the amount available for appropriation from Alaska drinking water fund  
14 revenue bond receipts, estimated to be \$2,720,000;

15 (2) the amount necessary, after the appropriation made in (1) of this  
16 subsection, estimated to be \$1,795,500, from the general fund.

17 (p) The amount received under AS 18.67.162 as program receipts, estimated to be  
18 \$70,000, including donations and recoveries of or reimbursement for awards made from the  
19 crime victim compensation fund (AS 18.67.162), during the fiscal year ending June 30, 2023,  
20 is appropriated to the crime victim compensation fund (AS 18.67.162).

21 (q) The sum of \$857,800 is appropriated from that portion of the dividend fund  
22 (AS 43.23.045(a)) that would have been paid to individuals who are not eligible to receive a  
23 permanent fund dividend because of a conviction or incarceration under AS 43.23.005(d) to  
24 the crime victim compensation fund (AS 18.67.162) for the purposes of the crime victim  
25 compensation fund (AS 18.67.162).

26 (r) An amount equal to the interest earned on amounts in the election fund required by  
27 the federal Help America Vote Act, estimated to be \$70,000, is appropriated to the election  
28 fund for use in accordance with 52 U.S.C. 21004(b)(2).

29 (s) The vaccine assessment program receipts collected under AS 18.09.220 during the  
30 fiscal year ending June 30, 2023, estimated to be \$15,000,000, are appropriated to the vaccine  
31 assessment fund (AS 18.09.230).

1 (t) The sum of \$100,000 is appropriated from general fund program receipts collected  
2 by the Department of Administration, division of motor vehicles, to the abandoned motor  
3 vehicle fund (AS 28.11.110) for the purpose of removing abandoned vehicles from highways,  
4 vehicular ways or areas, and public property.

5 (u) The sum of \$1,215,074,800 is appropriated from the general fund to the public  
6 education fund (AS 14.17.300). If the unrestricted state revenue available for appropriation in  
7 fiscal year 2023 is insufficient to cover the appropriation from the general fund made in this  
8 subsection, the appropriation made in this subsection is reduced by the amount of the  
9 shortfall.

10 (v) An amount equal to 10 percent of all revenue from taxes levied by AS 43.55.011  
11 that is not required to be deposited in the budget reserve fund (art. IX, sec. 17, Constitution of  
12 the State of Alaska), not to exceed \$349,000,000, is appropriated from the general fund to the  
13 oil and gas tax credit fund (AS 43.55.028).

14 \* **Sec. 79. FUND TRANSFERS.** (a) The federal funds received by the state under 42 U.S.C.  
15 6506a(l) or former 42 U.S.C. 6508 not appropriated for grants under AS 37.05.530(d) are  
16 appropriated as follows:

17 (1) to the principal of the Alaska permanent fund (art. IX, sec. 15, Constitution  
18 of the State of Alaska) and the public school trust fund (AS 37.14.110(a)), according to  
19 AS 37.05.530(g)(1) and (2); and

20 (2) to the principal of the Alaska permanent fund (art. IX, sec. 15, Constitution  
21 of the State of Alaska), the public school trust fund (AS 37.14.110(a)), and the power cost  
22 equalization endowment fund (AS 42.45.070(a)), according to AS 37.05.530(g)(3).

23 (b) The loan origination fees collected by the Alaska Commission on Postsecondary  
24 Education for the fiscal year ending June 30, 2023, are appropriated to the origination fee  
25 account (AS 14.43.120(u)) within the education loan fund (AS 14.42.210(a)) of the Alaska  
26 Student Loan Corporation for the purposes specified in AS 14.43.120(u).

27 (c) An amount equal to 10 percent of the filing fees received by the Alaska Court  
28 System during the fiscal year ending June 30, 2021, estimated to be \$281,567, is appropriated  
29 from the general fund to the civil legal services fund (AS 37.05.590) for the purpose of  
30 making appropriations from the fund to organizations that provide civil legal services to low-  
31 income individuals.

1 (d) The following amounts are appropriated to the oil and hazardous substance release  
2 prevention account (AS 46.08.010(a)(1)) in the oil and hazardous substance release  
3 prevention and response fund (AS 46.08.010(a)) from the sources indicated:

4 (1) the balance of the oil and hazardous substance release prevention  
5 mitigation account (AS 46.08.020(b)) in the general fund on June 30, 2022, estimated to be  
6 \$1,440,200, not otherwise appropriated by this Act;

7 (2) the amount collected for the fiscal year ending June 30, 2022, estimated to  
8 be \$6,400,000, from the surcharge levied under AS 43.55.300; and

9 (3) the amount collected for the fiscal year ending June 30, 2022, estimated to  
10 be \$6,700,000, from the surcharge levied under AS 43.40.005.

11 (e) The following amounts are appropriated to the oil and hazardous substance release  
12 response account (AS 46.08.010(a)(2)) in the oil and hazardous substance release prevention  
13 and response fund (AS 46.08.010(a)) from the following sources:

14 (1) the balance of the oil and hazardous substance release response mitigation  
15 account (AS 46.08.025(b)) in the general fund on June 30, 2022, estimated to be \$700,000,  
16 not otherwise appropriated by this Act; and

17 (2) the amount collected for the fiscal year ending June 30, 2022, from the  
18 surcharge levied under AS 43.55.201, estimated to be \$1,600,000.

19 (f) The unexpended and unobligated balance on June 30, 2022, estimated to be  
20 \$978,000, of the Alaska clean water administrative income account (AS 46.03.034(a)(2)) in  
21 the Alaska clean water administrative fund (AS 46.03.034) is appropriated to the Alaska clean  
22 water administrative operating account (AS 46.03.034(a)(1)) in the Alaska clean water  
23 administrative fund (AS 46.03.034).

24 (g) The unexpended and unobligated balance on June 30, 2022, estimated to be  
25 \$800,000, of the Alaska drinking water administrative income account (AS 46.03.038(a)(2))  
26 in the Alaska drinking water administrative fund (AS 46.03.038) is appropriated to the Alaska  
27 drinking water administrative operating account (AS 46.03.038(a)(1)) in the Alaska drinking  
28 water administrative fund (AS 46.03.038).

29 (h) An amount equal to the interest earned on amounts in the special aviation fuel tax  
30 account (AS 43.40.010(e)) during the fiscal year ending June 30, 2023, is appropriated to the  
31 special aviation fuel tax account (AS 43.40.010(e)).



1 (i) An amount equal to the revenue collected from the following sources during the  
2 fiscal year ending June 30, 2023, estimated to be \$933,000, is appropriated to the fish and  
3 game fund (AS 16.05.100):

4 (1) range fees collected at shooting ranges operated by the Department of Fish  
5 and Game (AS 16.05.050(a)(15)), estimated to be \$500,000;

6 (2) receipts from the sale of waterfowl conservation stamp limited edition  
7 prints (AS 16.05.826(a)), estimated to be \$3,000;

8 (3) fees collected for sanctuary access permits (AS 16.05.050(a)(15)),  
9 estimated to be \$130,000; and

10 (4) fees collected at hunter, boating, and angling access sites managed by the  
11 Department of Natural Resources, division of parks and outdoor recreation, under a  
12 cooperative agreement authorized under AS 16.05.050(a)(6), estimated to be \$300,000.

13 (j) The amount necessary for the purposes specified in AS 37.14.820 for the fiscal  
14 year ending June 30, 2023, estimated to be \$30,000, is appropriated from the mine  
15 reclamation trust fund income account (AS 37.14.800(a)) to the mine reclamation trust fund  
16 operating account (AS 37.14.800(a)).

17 (k) Twenty-five percent of the donations received under AS 43.23.230(b), estimated  
18 to be \$213,050, is appropriated to the education endowment fund (AS 43.23.220).

19 (l) The sum of \$15,000,000 is appropriated from the power cost equalization  
20 endowment fund (AS 42.45.070) to the renewable energy grant fund (AS 42.45.045).

21 (m) The unexpended and unobligated balance of the large passenger vessel gaming  
22 and gambling tax account (AS 43.35.220) on June 30, 2023, estimated to be \$10,200,000, is  
23 appropriated to the general fund.

24 (n) The sum of \$186,600,000 is appropriated from federal receipts received from sec.  
25 9901, P.L. 117-2 (Subtitle M—Coronavirus State and Local Fiscal Recovery Funds,  
26 American Rescue Plan Act of 2021) to the general fund for general fund revenue replacement.

27 \* **Sec. 80. RETIREMENT SYSTEM FUNDING.** (a) The sum of \$123,233,000 is  
28 appropriated from the general fund to the Department of Administration for deposit in the  
29 defined benefit plan account in the public employees' retirement system as an additional state  
30 contribution under AS 39.35.280 for the fiscal year ending June 30, 2023.

31 (b) The sum of \$91,029,000 is appropriated from the general fund to the Department

1 of Administration for deposit in the defined benefit plan account in the teachers' retirement  
2 system as an additional state contribution under AS 14.25.085 for the fiscal year ending  
3 June 30, 2023.

4 (c) The sum of \$3,225,000 is appropriated from the general fund to the Department of  
5 Administration for deposit in the defined benefit plan account in the judicial retirement  
6 system for the purpose of funding the judicial retirement system under AS 22.25.046 for the  
7 fiscal year ending June 30, 2023.

8 (d) The sum of \$1,368,000 is appropriated from the general fund to the Department of  
9 Administration to pay benefit payments to eligible members and survivors of eligible  
10 members earned under the elected public officers' retirement system for the fiscal year ending  
11 June 30, 2023.

12 (e) The amount necessary to pay benefit payments to eligible members and survivors  
13 of eligible members earned under the Unlicensed Vessel Personnel Annuity Retirement Plan,  
14 estimated to be \$0, is appropriated from the general fund to the Department of Administration  
15 for that purpose for the fiscal year ending June 30, 2023.

16 \* **Sec. 81. SALARY AND BENEFIT ADJUSTMENTS.** (a) The operating budget  
17 appropriations made in secs. 1 and 5 of this Act include amounts for salary and benefit  
18 adjustments for public officials, officers, and employees of the executive branch, Alaska  
19 Court System employees, employees of the legislature, and legislators and to implement the  
20 monetary terms for the fiscal year ending June 30, 2023, of the following ongoing collective  
21 bargaining agreements:

22 (1) Alaska Correctional Officers Association, representing the correctional  
23 officers unit;

24 (2) Public Safety Employees Association, representing the regularly  
25 commissioned public safety officers unit;

26 (3) Alaska Public Employees Association, for the supervisory unit;

27 (4) Public Employees Local 71, for the labor, trades, and crafts unit;

28 (5) Alaska State Employees Association, for the general government unit;

29 (6) pAlaska Vocational Technical Center Teachers' Association, National  
30 Education Association, representing the employees of the Alaska Vocational Technical  
31 Center;

1 (7) Marine Engineers' Beneficial Association, representing licensed engineers  
2 employed by the Alaska marine highway system;

3 (8) International Organization of Masters, Mates, and Pilots, representing the  
4 masters, mates, and pilots unit;

5 (9) Confidential Employees Association, representing the confidential unit.

6 (b) The operating budget appropriations made to the University of Alaska in sec. 1 of  
7 this Act include amounts for salary and benefit adjustments for the fiscal year ending June 30,  
8 2023, for university employees who are not members of a collective bargaining unit and to  
9 implement the monetary terms for the fiscal year ending June 30, 2023, of the following  
10 collective bargaining agreements:

11 (1) Alaska Higher Education Crafts and Trades Employees, Local 6070;

12 (2) Fairbanks Firefighters Union, IAFF Local 1324.

13 (c) If a collective bargaining agreement listed in (a) of this section is not ratified by  
14 the membership of the respective collective bargaining unit, the appropriations made in this  
15 Act applicable to the collective bargaining unit's agreement are adjusted proportionately by  
16 the amount for that collective bargaining agreement, and the corresponding funding source  
17 amounts are adjusted accordingly.

18 (d) If a collective bargaining agreement listed in (b) of this section is not ratified by  
19 the membership of the respective collective bargaining unit and approved by the Board of  
20 Regents of the University of Alaska, the appropriations made in this Act applicable to the  
21 collective bargaining unit's agreement are adjusted proportionately by the amount for that  
22 collective bargaining agreement, and the corresponding funding source amounts are adjusted  
23 accordingly.

24 \* **Sec. 82. SHARED TAXES AND FEES.** (a) An amount equal to the salmon enhancement  
25 tax collected under AS 43.76.001 - 43.76.028 in calendar year 2021, estimated to be  
26 \$6,931,000, and deposited in the general fund under AS 43.76.025(c), is appropriated from  
27 the general fund to the Department of Commerce, Community, and Economic Development  
28 for payment in the fiscal year ending June 30, 2023, to qualified regional associations  
29 operating within a region designated under AS 16.10.375.

30 (b) An amount equal to the seafood development tax collected under AS 43.76.350 -  
31 43.76.399 in calendar year 2021, estimated to be \$2,236,000, and deposited in the general

1 fund under AS 43.76.380(d), is appropriated from the general fund to the Department of  
2 Commerce, Community, and Economic Development for payment in the fiscal year ending  
3 June 30, 2023, to qualified regional seafood development associations for the following  
4 purposes:

5 (1) promotion of seafood and seafood by-products that are harvested in the  
6 region and processed for sale;

7 (2) promotion of improvements to the commercial fishing industry and  
8 infrastructure in the seafood development region;

9 (3) establishment of education, research, advertising, or sales promotion  
10 programs for seafood products harvested in the region;

11 (4) preparation of market research and product development plans for the  
12 promotion of seafood and their by-products that are harvested in the region and processed for  
13 sale;

14 (5) cooperation with the Alaska Seafood Marketing Institute and other public  
15 or private boards, organizations, or agencies engaged in work or activities similar to the work  
16 of the organization, including entering into contracts for joint programs of consumer  
17 education, sales promotion, quality control, advertising, and research in the production,  
18 processing, or distribution of seafood harvested in the region;

19 (6) cooperation with commercial fishermen, fishermen's organizations,  
20 seafood processors, the Alaska Fisheries Development Foundation, the Fishery Industrial  
21 Technology Center, state and federal agencies, and other relevant persons and entities to  
22 investigate market reception to new seafood product forms and to develop commodity  
23 standards and future markets for seafood products.

24 (c) An amount equal to the dive fishery management assessment collected under  
25 AS 43.76.150 - 43.76.210 during the fiscal year ending June 30, 2022, estimated to be  
26 \$300,000, and deposited in the general fund is appropriated from the general fund to the  
27 Department of Fish and Game for payment in the fiscal year ending June 30, 2023, to the  
28 qualified regional dive fishery development association in the administrative area where the  
29 assessment was collected.

30 (d) The amount necessary to refund to local governments and other entities their share  
31 of taxes and fees collected in the listed fiscal years under the following programs is

appropriated from the general fund to the Department of Revenue for payment to local governments and other entities in the fiscal year ending June 30, 2023:

REVENUE SOURCE	FISCAL YEAR COLLECTED	ESTIMATED AMOUNT
Fisheries business tax (AS 43.75)	2022	\$23,961,000
Fishery resource landing tax (AS 43.77)	2022	5,844,000
Electric and telephone cooperative tax (AS 10.25.570)	2023	4,156,000
Liquor license fee (AS 04.11)	2023	640,000
Cost recovery fisheries (AS 16.10.455)	2023	810,000

(e) The amount necessary to refund to local governments the full amount of an aviation fuel tax or surcharge collected under AS 43.40 for the fiscal year ending June 30, 2023, estimated to be \$158,000, is appropriated from the proceeds of the aviation fuel tax or surcharge levied under AS 43.40 to the Department of Revenue for that purpose.

(f) The amount necessary to pay the first seven ports of call their share of the tax collected under AS 43.52.220 in calendar year 2022 according to AS 43.52.230(b), estimated to be \$18,123,000, is appropriated from the commercial vessel passenger tax account (AS 43.52.230(a)) to the Department of Revenue for payment to the ports of call for the fiscal year ending June 30, 2023.

(g) If the amount in the commercial vessel passenger tax account (AS 43.52.230(a)) that is derived from the tax collected under AS 43.52.220 in calendar year 2022 is less than the amount necessary to pay the first seven ports of call their share of the tax collected under AS 43.52.220 in calendar year 2022 according to AS 43.52.230(b), the appropriation made in (f) of this section shall be reduced in proportion to the amount of the shortfall.

**\* Sec. 83. RATIFICATION OF SMALL AMOUNTS IN STATE ACCOUNTING SYSTEM.** The appropriation to each department under this Act for the fiscal year ending June 30, 2023, is reduced to reverse negative account balances in amounts of \$1,000 or less for the department in the state accounting system for each prior fiscal year in which a negative account balance of \$1,000 or less exists.

**\* Sec. 84. SPECIAL APPROPRIATION FOR ENERGY RELIEF.** In addition to the appropriation made in sec. 62(c)(1) of this Act, the amount necessary to pay a one-time

1 energy relief payment of \$1,300 as part of the permanent fund dividend, estimated to be  
2 \$840,141,775, is appropriated to the dividend fund (AS 43.23.045(a)) for the fiscal year  
3 ending June 30, 2023, from the following sources:

4 (1) \$420,070,887 from the general fund;

5 (2) (This paragraph did not receive the affirmative vote of three-fourths of the  
6 members of each house of the legislature required by art. IX, sec. 17(c), Constitution of the  
7 State of Alaska.)

8 \* **Sec. 85. STATUTORY BUDGET RESERVE FUND.** (a) The unobligated and  
9 unrestricted balance of the general fund on June 30, 2023, is appropriated from the general  
10 fund to the budget reserve fund (AS 37.05.540(a)).

11 (b) If the unrestricted state revenue available for appropriation in fiscal year 2023 is  
12 insufficient to cover the general fund appropriations that take effect in fiscal year 2023, not  
13 including the appropriation made in sec. 78(u) of this Act, the amount necessary to balance  
14 revenue and general fund appropriations that take effect in fiscal year 2023, not including the  
15 appropriation made in sec. 78(u) of this Act, is appropriated to the general fund from the  
16 budget reserve fund (AS 37.05.540(a)).

17 \* **Sec. 86. LAPSE OF APPROPRIATIONS.** (a) The appropriations made in secs. 18, 27,  
18 28(b) and (c), 30, 32(1), 59, 62(a), (b), (c)(1), and (d) - (f), 63(c) - (e), 72(a), 76(b) and (c), 78,  
19 79(a) - (l), 80(a) - (c), 84, and 85(a) of this Act are for the capitalization of funds and do not  
20 lapse.

21 (b) The appropriations made in secs. 11, 14, 32(2), 33, 34, 35(a) and (e), 36 - 38,  
22 39(a), 41 - 45, 55, and 56 of this Act are for capital projects and lapse under AS 37.25.020.

23 \* **Sec. 87. RETROACTIVITY.** (a) The appropriations made in sec. 1 of this Act that  
24 appropriate either the unexpended and unobligated balance of specific fiscal year 2022  
25 program receipts or the unexpended and unobligated balance on June 30, 2022, of a specified  
26 account are retroactive to June 30, 2022, solely for the purpose of carrying forward a prior  
27 fiscal year balance.

28 (b) If secs. 8 - 10, 14 - 22, 23(a), 24 - 29, and 88(d) of this Act take effect after  
29 April 15, 2022, secs. 8 - 10, 14 - 22, 23(a), 24 - 29, and 88(d) of this Act are retroactive to  
30 April 15, 2022.

31 (c) If secs. 23(b), 30, 35(d), 36, 38(a), 40 - 43, 45, 46(b), 47, 48(a), 49(a) - (k), 50 -

54, 55(a) - (c), 56, 59, 64(h), and 79(d) and (e) of this Act take effect after June 30, 2022, secs. 23(b), 30, 35(d), 36, 38(a), 40 - 43, 45, 46(b), 47, 48(a), 49(a) - (k), 50 - 54, 55(a) - (c), 56, 59, 64(h), and 79(d) and (e) of this Act are retroactive to June 30, 2022.

(d) If secs. 1 - 4, 11 - 13, 31 - 34, 35(a) - (c) and (e), 37, 38(b), 39, 44, 46(a), 48(b) and (c), 49(l), 55(d) - (h), 57, 58, 60, 61, 62(a) - (e), 63, 64(a) - (g), 65 - 71, 72(a), 73 - 78, 79(a) - (c) and (f) - (n), 80 - 87, and 88(a) - (c), (e), and (f) of this Act take effect after July 1, 2022, secs. 1 - 4, 11 - 13, 31 - 34, 35(a) - (c) and (e), 37, 38(b), 39, 44, 46(a), 48(b) and (c), 49(l), 55(d) - (h), 57, 58, 60, 61, 62(a) - (e), 63, 64(a) - (g), 65 - 71, 72(a), 73 - 78, 79(a) - (c) and (f) - (n), 80 - 87, and 88(a) - (c), (e), and (f) of this Act are retroactive to July 1, 2022.

(e) If sec. 62(f) of this Act takes effect after June 30, 2023, sec. 62(f) of this Act is retroactive to June 30, 2023.

\* **Sec. 88. CONTINGENCIES.** (a) The appropriation made in sec. 48(c) of this Act is contingent on the Matanuska-Susitna Borough contributing \$30,000,000 in matching funds to the 2021 Matanuska-Susitna Borough Transportation Infrastructure Package.

(b) The appropriations made in sec. 1 of this Act for the payment of a bonus to an employee in the executive branch of the state government who is a member of a collective bargaining unit established under the authority of AS 23.40.070 - 23.40.260 (Public Employment Relations Act) but for which the state and applicable bargaining unit of the employee have not yet entered into a letter of agreement under AS 23.40.070 - 23.40.260 are contingent on the following:

(1) the state and the applicable bargaining unit of the employee entering into a letter of agreement under AS 23.40.070 - 23.40.260 for the bonus; and

(2) the Department of Administration, division of personnel and labor relations, providing a copy of the letter of agreement described in (b)(1) of this section to the legislative finance division in electronic form not later than June 30, 2023, or 30 days after the department enters into the letter of agreement, whichever is earlier.

(c) The appropriations made in sec. 1 of this Act for the payment of bonuses to classified or partially exempt employees in the executive branch of the state government who are not members of a collective bargaining unit established under the authority of AS 23.40.070 - 23.40.260 (Public Employment Relations Act) are contingent on passage by the Thirty-Second Alaska State Legislature and enactment into law of House Bill 416 or a

1 similar bill.

2 (d) The appropriations made in secs. 28(b) and (c) of this Act are contingent on  
3 passage by the Thirty-Second Alaska State Legislature and enactment into law of House Bill  
4 322 or a similar bill.

5 (e) The appropriation made in sec. 35(e) of this Act is contingent on the passage by  
6 the Thirty-Second Alaska State Legislature in the Second Regular Session and enactment into  
7 law of SB 9 or a similar bill.

8 (f) The appropriation made in sec. 34 of this Act is contingent on the passage by the  
9 Thirty-Second Alaska State Legislature in the Second Regular Session and enactment into law  
10 of SB 25 or a similar bill.

11 \* **Sec. 89.** Sections 8 - 10, 14 - 22, 23(a), 24 - 29, and 88(d) of this Act take effect April 15,  
12 2022.

13 \* **Sec. 90.** Section 87 of this Act takes effect immediately under AS 01.10.070(c).

14 \* **Sec. 91.** Sections 23(b), 30, 35(d), 36, 38(a), 40 - 43, 45, 46(b), 47, 48(a), 49(a) - (k), 50 -  
15 54, 55(a) - (c), 56, 59, 64(h), and 79(d) and (e) of this Act take effect June 30, 2022.

16 \* **Sec. 92.** Sections 5 - 7 and 72(b) of this Act take effect January 1, 2023.

17 \* **Sec. 93.** Section 62(f) of this Act takes effect June 30, 2023.

18 \* **Sec. 94.** Except as provided in secs. 89 - 93 of this Act, this Act takes effect July 1, 2022.



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 criteria 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:

<b><u>Unincorporated Community</u></b>	<b><u>Possible Community Recipient</u></b>
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.
Kachemak 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

<b><u>Unincorporated Community</u></b>	<b><u>Possible Community Recipient</u></b>
	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.

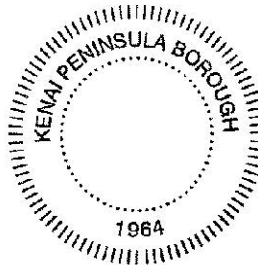
**SECTION 2.** This resolution is effective immediately upon adoption.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 5TH DAY OF APRIL, 2022.**

  
 Brent Johnson, Assembly President

ATTEST:

  
 John Blankenship, MMC, Borough Clerk



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;

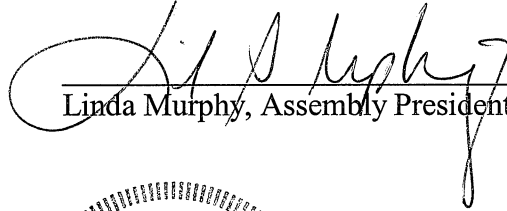
**NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**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.

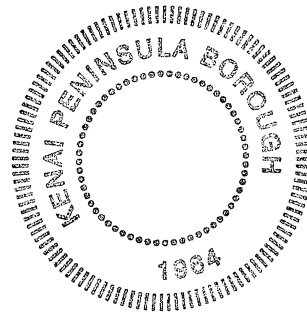
**SECTION 3.** That this resolution takes effect retroactive to January 1, 2013.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 19TH DAY OF MARCH, 2013.**

  
Linda Murphy, Assembly President

ATTEST:

  
John 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.**

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Brent Johnson, Assembly President

ATTEST:

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Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

# 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.	<u>271-11250-23NOA-49999</u>
Amount	<u>\$61,000</u>
By:	<u><i>CJ</i></u> Date: <u>11/29/2022</u>





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](http://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](mailto: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.

Mayor Navarre  
November 22, 2022  
Page 2 of 2

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](mailto: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:

# 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.

Page -2-  
December 1, 2022  
RE: O2022-19-37

**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: <u>100.27930</u>	Amount: <u>\$13,078.54</u>
Account: <u>264.27910</u>	Amount: <u>\$ 6,625.18</u>
By: <u></u>	Date: <u>11/28/2022</u>

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:

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Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:



# 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 Kisenia, 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: *CK* 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 approval without objection; and

**WHEREAS,** the Borough Planning Commission at its regularly scheduled meeting of December 12, 2022 recommended approval by unanimous consent;

**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.**

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Brent Johnson, Assembly President

ATTEST:

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Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

# Kenai Peninsula Borough

## Land Management Division

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### 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)

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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.

Kenai Peninsula Borough  
Office of the Borough Clerk

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**MEMORANDUM**

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

**FROM:** Michele Turner, Acting Borough Clerk (MT)

**DATE:** December 21, 2022

**RE:** Ordinance 2022-43: Authorizing a Subsurface Oil and Gas Lease to Hilcorp Alaska, LLC, in the Ninilchik Unit (Mayor)

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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.

The tenth Whereas clause has been updated to read:

**WHEREAS,** WESA at its regularly scheduled meeting of December 14, 2022, recommended approval without objection; and

The eleventh Whereas clause was deleted as the Anchor Point Advisory Planning Commission did not have a quorum at their December 8, 2022 meeting.

[WHEREAS, THE ANCHOR POINT ADVISORY PLANNING COMMISSION AT ITS REGULARLY SCHEDULED MEETING OF DECEMBER 8, 2022, RECOMMENDED \_\_\_\_\_; AND]

The twelfth Whereas clause has been updated to read:

**"WHEREAS,** the Borough Planning Commission at its regularly scheduled meeting of December 12, 2022 recommended approval by unanimous consent;"

Thank you.

## Turner, Michele

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**From:** Parkinson, Cassandra  
**Sent:** Wednesday, December 21, 2022 12:14 PM  
**To:** Turner, Michele; Marsh, Jon  
**Subject:** RE: KPB Ordinance 2022-43

Michele,

Yes the Board did vote on this.

The Board chair had to recuse himself from the vote due to sitting on the planning commission, per Borough Legal.

The other 3 Board Members present, voted unanimously to recommend approval and acceptance of this ordinance.

Thx  
Cassie

**From:** Turner, Michele <MicheleTurner@kpb.us>  
**Sent:** Wednesday, December 21, 2022 12:08 PM  
**To:** Marsh, Jon <JMarsh@kpb.us>  
**Cc:** Parkinson, Cassandra <CParkinson@kpb.us>  
**Subject:** KPB Ordinance 2022-43

Good afternoon Chief,

Did the WESA discuss Ordinance 2022-43 at their December 14, 2022 meeting?

Ordinance 2022-43: Authorizing a Subsurface Oil and Gas Lease to Hilcorp Alaska, LLC, in the Ninilchik Unit (Mayor)

Do you know what their recommendations were? Was the vote unanimous?

We have a blank we need to fill-in in the ordinance.

Thanks for your help!

**Michele Turner, CMC**  
Acting Borough Clerk  
(907) 714-2165 direct

**KENAI PENINSULA BOROUGH**  
144 North Binkley Street  
Soldotna, Alaska 99669



## Turner, Michele

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**From:** Raidmae, Ryan  
**Sent:** Wednesday, December 21, 2022 11:34 AM  
**To:** Turner, Michele  
**Subject:** RE: Ordinance 2022-43

Hi Michele,  
Anchor Point APC could not form a quorum at their December 8<sup>th</sup> meeting and so they did not make a recommendation for Ordinance 2022-43.  
Please let me know if you have any other questions.  
Thanks,

Ryan Raidmae  
KPB Planner  
Donald E. Gilman River Center  
Ph: (907) 714-2462

KENAI PENINSULA BOROUGH  
514 Funny River Road  
Soldotna, Alaska 99669



**From:** Turner, Michele <MicheleTurner@kpb.us>  
**Sent:** Wednesday, December 21, 2022 10:00 AM  
**To:** Raidmae, Ryan <rraidmae@kpb.us>  
**Subject:** Ordinance 2022-43

Hi Ryan,

Did the Anchor Point APC discuss Ordinance 2022-43 at their December 8, 2022 meeting?

Ordinance 2022-43: Authorizing a Subsurface Oil and Gas Lease to Hilcorp Alaska, LLC, in the Ninilchik Unit (Mayor)

Do you know what their recommendations were? Was the vote unanimous?

We have a blank we need to fill-in in the ordinance.

Thanks for your help!

**Michele Turner, CMC**  
Acting Borough Clerk  
(907) 714-2165 direct



## Turner, Michele

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**From:** Shirnberg, Ann  
**Sent:** Monday, December 12, 2022 8:21 PM  
**To:** Turner, Michele; Warner, Avery  
**Subject:** PC Recommendation ORD 2022-43

Good Morning,

The Planning Commission at its' regularly scheduled meeting of December 12, 2022 recommend unanimously (11-Yes, 1-Absent, 0-No, 2-Vacant) that the assembly adopt Ordinance 2022-43

**Ordinance 2022-43: Authorizing a subsurface oil & gas lease to Hilcorp Alaska, LLC, in the Ninilchik Unit.**

Thank You,

Ann Shirnberg  
Administrative Assistant  
Planning Department  
(907) 714-2215

KENAI PENINSULA BOROUGH  
144 North Binkley Street  
Soldotna, Alaska 99669



**PUBLIC RECORDS LAW DISCLOSURE:** This email and responses to this email may be subject to provisions of Alaska Statutes and may be made available to public upon request.



# SUBSURFACE LEASE WITH HILCORP ALASKA, LLC



0 250 500 1,000 Feet





## 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

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**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)**

**LESSEE: HILCORP ALASKA, LLC**

**Signature:**

**Signature:**

\_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

\_\_\_\_\_  
**Name:** Luke Saugier  
**Title:** Senior Vice President  
**Date:** \_\_\_\_\_

**Signature:**

\_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**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)**

**LESSEE: HILCORP ALASKA, LLC**

**Signature:**

\_\_\_\_\_

By: \_\_\_\_\_

**Name:** \_\_\_\_\_

**Name:** Luke Saugier

**Title:** \_\_\_\_\_

**Title:** Senior Vice President

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Signature:**

\_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**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.

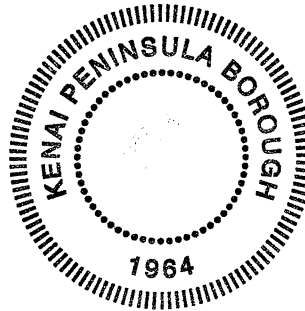
**SECTION 9.** That this ordinance shall take effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 28TH DAY OF JULY, 2015.**

Dale Bagley  
Dale Bagley, Assembly President

ATTEST:

John Blankenship  
John Blankenship, MMC, Borough Clerk



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:

SELLER:

\_\_\_\_\_  
Mike Navarre, Mayor

\_\_\_\_\_  
*William J. Bassett*  
William J. Bassett

Dated: \_\_\_\_\_

Dated: 03/18/15

ATTEST:

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Johni Blankenship,  
Borough Clerk

\_\_\_\_\_  
Holly B Montague,  
Deputy Borough Attorney



NOTARY ACKNOWLEDGMENT

STATE OF ALASKA                    )  
  ) ss  
THIRD JUDICIAL DISTRICT        )

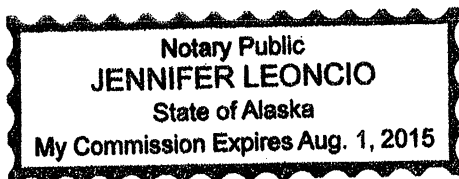
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of September, 2015, by Mike Navarre, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for and on behalf of the corporation.

\_\_\_\_\_  
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.



Jennifer Leoncio  
Notary Public in and for Virginia  
My commission expires: 8-1-15

Introduced by: Mayor  
Date: 01/03/23  
Action:  
Vote:

**KENAI PENINSULA BOROUGH  
RESOLUTION 2023-002**

**A RESOLUTION ADOPTING AN ALTERNATE ALLOCATION METHOD FOR THE  
FISCAL YEAR 2023 SHARED FISHERIES BUSINESS TAX PROGRAM AND  
CERTIFYING THAT THIS ALLOCATION METHOD FAIRLY REPRESENTS THE  
DISTRIBUTION OF SIGNIFICANT EFFECTS OF FISHERIES BUSINESS ACTIVITY  
IN THE COOK INLET FISHERIES MANAGEMENT AREA**

**WHEREAS,** Alaska Statute 29.60.450 requires that for a municipality to participate in the fiscal year 2023 (“FY23”) Shared Fisheries Business Tax Program, the municipality must demonstrate to the Department of Commerce, Community, and Economic Development that the municipality suffered significant effects during calendar year 2021 from fisheries business activities; and

**WHEREAS,** 3 AAC 134.060 provides for the allocation of available program funding to eligible municipalities located within fisheries management areas (“FMA”) specified by the Department of Commerce, Community, and Economic Development; and

**WHEREAS,** 3 AAC 134.070 provides for the use, at the discretion of the Department of Commerce, Community, and Economic Development, of alternative allocation methods which may be used within fisheries management areas if all eligible municipalities within the area agree to use the method and the method incorporates some measure of the relative significant effect of fisheries business activity on the respective municipalities in the area; and

**WHEREAS,** the Kenai Peninsula Borough Assembly proposes to use an alternative allocation method for allocation of the FY23 funding available within the FMA14: Cook Inlet fisheries management area in agreement with all other municipalities in this area participating in the FY23 Shared Fisheries Business Tax Program;

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

**SECTION 1.** That by this resolution the Assembly certifies that the Kenai Peninsula Borough did suffer significant effects during calendar year 2021 from fisheries business activities that occurred within the Cook Inlet fisheries management area and wishes to apply for funding under the FY23 Shared Fisheries Business Tax Program.

**SECTION 2.** All eligible communities in the Cook Inlet fisheries management area will receive fifty percent (50%) divided equally, and fifty percent (50%) divided on a per capita basis.

**SECTION 3.** That this resolution takes effect immediately upon adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 3RD DAY OF JANUARY 2023.**

\_\_\_\_\_  
Brent Johnson, Assembly President

ATTEST:

\_\_\_\_\_  
Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

# Kenai Peninsula Borough

## Finance Department

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### MEMORANDUM

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

**THRU:** Mike Navarre, Mayor *MN*

**FROM:** Brandi Harbaugh, Finance Director *BH*

**DATE:** December 21, 2022

**SUBJECT:** Resolution 2023-002, Adopting an Alternate Allocation Method for the Fiscal Year 2023 Shared Fisheries Business Tax Program and Certifying that this Allocation Method Fairly Represents the Distribution of Significant Effects of Fisheries Business Activity in the Cook Inlet Fisheries Management Area (Mayor)

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In order for the Kenai Peninsula Borough to participate in the fiscal year 2023 (FY23) Shared Fisheries Business Tax Program, the Borough Assembly must submit a resolution indicating the adoption of an alternative method for allocation of the FY23 available funding. If the municipalities within each fisheries management area choose not to select the alternative method, it would then become necessary to gather and submit data on actual cost impacts of commercial fishing within each designated area. Given the relatively small amount of funds available, this approach would not be cost effective. A resolution adopting the alternative method is attached for your approval.

The Kenai Peninsula Borough is located in the Cook Inlet Fisheries Management Area. The municipalities located in this area include Anchorage, Homer, Kenai, Kenai Peninsula Borough, Kachemak, Seldovia, Seward, and Soldotna. The FY23 program total allocation to be received by the borough is expected to be about \$3,290.51.



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community,  
and Economic Development  
DIVISION OF COMMUNITY AND REGIONAL AFFAIRS  
Fairbanks Office

455 Third Avenue, Suite 140  
Fairbanks, Alaska 99701-3110  
Main: 907.451.2718  
Fax: 907.451.2742

November 15, 2022

Kenai Peninsula Borough  
144 North Binkley Street  
Soldotna, AK 99669

Dear Municipal Official:

The Department of Commerce, Community, and Economic Development is pleased to announce availability of the **FY 2023 Shared Fisheries Business Tax Program**. The purpose of the program is to allocate a share of state fish tax collected outside municipal boundaries with municipalities affected by fishing industry activities. Municipalities around the state will share approximately \$2.4 million based on 2021 fisheries activity as reported by fish processors on their fish tax returns. Details of how the program works are included in the application under *Program Description*.

**Historically, your municipality along with the other communities in your fisheries management area FMA 14: Cook Inlet has filed using the Alternative Method found on the last four pages of this application.** A breakdown is included that details the communities in your FMA, in addition to the anticipated payment based on the agreed upon allocation method for your FMA. If this agreement is still in place with your FMA, you will only need to have your Council/Assembly pass the enclosed alternative method sample resolution in order to participate in the program.

If your FMA intends to change the alternative method of allocation, the new proposal must be submitted to our office no later than **January 15, 2023**. If an agreement cannot be made with all communities in your FMA, you will need to file using the standard method and claim your significant effects. Instructions on both of these methods are detailed in the application packet.

**DEADLINE FOR SUBMISSION OF COMPLETED APPLICATION IS  
FEBRUARY 15, 2023**

Applications can be scanned and emailed to [caa@alaska.gov](mailto:caa@alaska.gov) with the subject line **"KPB, FY23, SFBT"**. If you have any questions about the program or require assistance in completing the application, please contact me at [kimberly.phillips@alaska.gov](mailto:kimberly.phillips@alaska.gov) or call (907) 451-2718.

Sincerely,

Kimberly Phillips  
Grants Administrator 3

Enclosure

FMA 14: Cook Inlet					FY 22 Landing Tax Allocation \$806.41		Reference Number
Total allocation: \$26,230.48      50% Divided \$13,115.24      50% per capita \$13,115.24      LONG							
Community	Population	50% divided share	50% per capita share	Calculated Allocation	Calculated Allocation	Total Distribution	
Municipality of Anchorage	289,697	\$1,192.29	\$9,827.77	\$11,020.06	\$338.79	23-SF14-01	\$ 11,358.86
City of Homer	5,491	\$1,192.29	\$186.28	\$1,378.57	\$42.38	23-SF14-02	\$ 1,420.95
City of Kachemak	620	\$1,192.29	\$21.03	\$1,213.33	\$37.30	23-SF14-03	\$ 1,250.63
City of Kenai	7,380	\$1,192.29	\$250.36	\$1,442.66	\$44.35	23-SF14-04	\$ 1,487.01
Kenai Peninsula Borough	58,957	\$1,192.29	\$2,000.08	\$3,192.37	\$98.14	23-SF14-05	\$ 3,290.51
City of Seldovia	258	\$1,192.29	\$8.75	\$1,201.06	\$36.93	23-SF14-06	\$ 1,237.98
City of Seward	2,603	\$1,192.29	\$88.30	\$1,280.60	\$39.37	23-SF14-07	\$ 1,319.97
City of Soldotna	4,449	\$1,192.29	\$150.93	\$1,343.22	\$41.30	23-SF14-08	\$ 1,384.52
City of Houston	1,989	\$1,192.29	\$67.48	\$1,259.77	\$38.73	23-SF14-10	\$ 1,298.50
City of Palmer	5,932	\$1,192.29	\$201.24	\$1,393.53	\$42.84	23-SF14-11	\$ 1,436.38
City of Wasilla	9,227	\$1,192.29	\$313.02	\$1,505.31	\$46.28	23-SF14-12	\$ 1,551.59
<b>Totals</b>	<b>386,603</b>	<b>\$13,115.24</b>	<b>\$13,115.24</b>	<b>\$26,230.49</b>	<b>\$806.41</b>		<b>\$ 27,036.90</b>
Community Count	11						
* All municipalities share 50% of allocation equally; share remaining 50% on a per capita basis.							

Introduced by:

Mayor

Date:

01/03/23

Action:

Vote:

**KENAI PENINSULA BOROUGH  
RESOLUTION 2023-003**

**A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF GENERAL  
OBLIGATION BONDS, IN ONE OR MORE SERIES, OF THE KENAI PENINSULA  
BOROUGH IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$65,550,000 TO  
FINANCE COSTS OF CERTAIN EDUCATIONAL CAPITAL IMPROVEMENTS IN  
THE BOROUGH; AUTHORIZING THE SALE OF SUCH BONDS; FIXING CERTAIN  
DETAILS OF SUCH BONDS; PLEDGING THE FULL FAITH AND CREDIT OF THE  
BOROUGH TO THE PAYMENT THEREOF; AUTHORIZING THE SALE OF SUCH  
BONDS; AND PROVIDING FOR RELATED MATTERS**

**WHEREAS,** the Kenai Peninsula Borough, Alaska (the “Borough”) is a second class borough and is authorized to take the actions set forth in this resolution; and

**WHEREAS,** at an election held in the 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, 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,** Section 29.47.410 of the Alaska Statutes provides that the Borough Assembly by ordinance or resolution may provide for the form and manner of sale of bonds and notes; and

**WHEREAS,** it is in the best interest of the Borough and its residents that the Borough proceed to plan, design, construct, and equip the educational capital improvements within the Borough as described in Proposition 2 (the “Projects”), and issue, in one or more series, not to exceed \$65,550,000 principal amount of general obligation bonds referred to in Proposition No. 2, constituting the unsold general obligation bonds referred to therein, to pay costs of the Projects; and

**WHEREAS,** the Borough Assembly deems it necessary and desirable to delegate to each the Borough Mayor and Borough Finance Director the authority to sell the general obligations bonds referred to herein to the Alaska Municipal Bond Bank or financial institution pursuant to the terms of a loan agreement, as determined to

be in the best interests of the Borough and in accordance with the terms and conditions set forth in this Resolution.

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

**SECTION 1. Definitions.** The following terms shall have the following meanings in this Resolution:

- (A) “Assembly” means the Assembly of the Borough, as the general legislative authority of the Borough, as the same shall be duly and regularly constituted from time to time.
- (B) “Bonds” means each series of the general obligation bonds of the Borough, the issuance and sale of which are authorized herein as evidence of indebtedness referred to in Proposition No. 2.
- (C) “Bond Bank” means the Alaska Municipal Bond Bank, a public corporation and instrumentality of the State of Alaska, created pursuant to the provisions of Chapter 85, Title 44, Alaska Statutes, as amended.
- (D) “Bond Register” means the registration books maintained by the Registrar, which include the names and addresses of the owners or nominees of the Registered Owners of the Bonds.
- (E) “Borough” means the Kenai Peninsula Borough, a municipal corporation of the State of Alaska, organized as a second class borough under Title 29 of the Alaska Statutes.
- (F) “Borough Finance Director” means the Finance Director of the Borough.
- (G) “Borough Mayor” means the Mayor of the Borough.
- (H) “Code” means the Internal Revenue Code of 1986, as amended from time to time, together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued or amended with respect thereto by the United States Treasury Department or the Internal Revenue Service.
- (I) “Cost” or “Costs” means the cost of planning, designing, site preparation, constructing, acquiring, renovating, installing and equipping the Projects, including interest on the Bonds during the period of planning, designing, site preparation, constructing, acquiring, renovating, installing and equipping the Projects, the cost whether incurred by the Borough or by another of field surveys and advance planning undertaken in connection with the Projects properly allocable to the Projects, the cost of acquisition



of any land or interest therein required as the site or sites of the Projects or for use in connection therewith, the cost of any indemnity and surety bonds and premiums on insurance incurred in connection with the Projects prior to or during construction thereof, all related direct administrative and inspection expenses whether incurred by the Borough or by another in connection with the Projects prior to or during construction thereof and allocation portions of direct costs of the Borough, legal fees, costs of issuance of the Bonds by the Borough, including financing charges and fees and expenses of bond counsel, financial advisors and consultants in connection therewith, the cost of any bond insurance premium, the cost of audits, the cost of all machinery, apparatus and equipment, cost of engineering, architectural services, designs, plans, specifications and surveys, estimates of cost, the reimbursement of all moneys advanced from whatever source for the payment of any item or items of cost of the Projects, and all other expenses necessary or incidental to determining the feasibility or practicability of the Projects, and such other expenses not specified herein as may be necessary or incidental to the acquisition and development of the Projects, the financing thereof and the putting of the same in use and operation.

- (J) “Election Ordinance” shall have the meaning set forth in the recitals to this Resolution.
- (K) “Loan Agreement” means the written offer to purchase the Bonds however denominated (including offer, purchase agreement, purchase contract, and loan agreement), specifying the matters required to be set forth therein by this Resolution, which offer is authorized to be accepted by the Borough pursuant to this Resolution, if consistent with the provisions of this Resolution.
- (L) “Projects” means the educational capital improvements in the Borough, which are authorized and more fully described in the Election Ordinance and Proposition 2.
- (M) “Proposition 2” shall have the meaning set forth in the recitals to this Resolution.
- (N) “Record Date” means, with, (i) with respect to an interest payment date, unless otherwise specified in the Loan Agreement, the close of business of the Registrar on the 15<sup>th</sup> day of the month preceding an interest payment date; and (ii) with respect to a prepayment or redemption date, the close of business of the Registrar on the date on which the Registrar prepares the notice of prepayment or redemption.
- (O) “Registered Owner” means the person named as the registered owner of the Bonds, in the Bond Register.

- (P) “Registrar” means the Finance Director of the Borough, or any successor that the Borough may appoint by resolution, for the purposes of registering and authenticating the Bonds, maintaining the Bond Register, and paying the principal of and interest on the Bonds.
- (Q) “Resolution” means this Resolution of the Assembly.
- (R) “Rule” means Rule 15c2-12 of the United Securities and Exchange Commission under the Securities Exchange Act of 1934.

**SECTION 2.** Authorization of Bonds and Purpose of Issuance. For the purpose of providing funds required to pay all or a portion of the Costs of the Projects, the Borough hereby authorizes and determines to issue and sell the Bonds, in one or more series, in the aggregate principal amount of not to exceed \$65,550,000. The Bonds shall be general obligation bonds of the Borough, authorized by the Election Ordinance and approved by the qualified electors of the Borough at the general election held on October 4, 2022, to finance costs of planning, designing, site preparations, construction, acquiring, renovating, installing, and equipping education capital improvements and pay costs of issuance of the Bonds. The Bonds shall be designated “Kenai Peninsula Borough, Alaska, General Obligation Bond (Educational Capital Improvements),” with such additional series, year, and other designation as the Borough Mayor or the Borough Finance Director may fix and determine.

The Borough Mayor and Borough Finance Director are each hereby authorized to determine whether the Bonds, or series of Bonds, shall be sold to the Bond Bank or a financial institution pursuant to the terms of a Loan Agreement. If the Bonds, or a series of Bonds, are sold to the Bond Bank, such Bonds will be issued as a single bond; if the Bonds, or a series of Bonds, are sold to a financial institution, such Bonds may be issued as serial and term bonds.

The authority to issue Bonds authorized, but unissued, pursuant to the terms of this Resolution shall expire fourteen (14) months following approval of this Resolution by the Assembly (“Expiration Date”), unless extended by resolution of the Assembly.

The Borough has ascertained and hereby determines that each and every matter and thing as to which provision is made in this Resolution is necessary in order to carry out and effectuate the purpose of the Borough in accordance with the Constitution the statutes of the State of Alaska and Borough legislation to incur the indebtedness and issue the Bonds as referred to in Proposition 2.

**SECTION 3.** Obligation of Bonds. The Bonds shall be direct and general obligations of the Borough and the full faith and credit of the Borough are hereby pledged to the payment of the principal of and interest on the Bonds. The Borough hereby

irrevocably pledges and covenants that it will levy and collect taxes upon all taxable property within the Borough without limitation as to rate or amount, in amounts sufficient, together with other funds legally available therefor, to pay the principal of and interest on the Bonds as the same become due and payable.

**SECTION 4.** Date, Maturities, Interest Rates, and Other Details of Bonds. The Bonds shall be dated the date of sale and delivery to the purchaser, shall be in the denomination of \$5,000 or any integral multiple thereof, or such other denominations as may be determined by the Mayor or Finance Director, and shall be numbered in such manner and with any additional designation as the Registrar deems necessary for purposes of identification and control.

The Bonds shall bear interest from the date thereof, and semiannually thereafter of each year. Interest shall be computed on the basis of a 360-day year composed of twelve 30-day months. The Mayor and Finance Director are each authorized to fix and determine the principal installment payment dates and the rate of interest on each principal installment of the Bonds, provided that (i) the true interest cost of each series of Bonds shall not exceed five percent (5%) unless approved by resolution of the Assembly; and (ii) the final principal installment date of each series of Bonds shall be no later than twenty (20) years following the year in which such Bond is issued.

**SECTION 5.** Place and Medium of Payment. Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America which, on the respective dates of payment thereof, shall be legal tender for the payment of public and private debts. If the Bonds are registered in the name of the Bond Bank, payments of principal and interest thereon shall be made as provided in the Loan Agreement. If the Bonds are not owned by the Bond Bank, payments of principal and interest on the Bonds will be made by check or draft mailed by first class mail to the Registered Owners of the Bonds at the addresses for such Registered Owners appearing on the Bond Register on the 15th day of the month preceding the payment date, or, at the request and sole expense of a Registered Owner made prior to the Record Date, by wire transfer to a bank account in the United States on the payment date, provided that the final installment of principal and interest on the Bonds will be payable at the principal office of the Registrar.

**SECTION 6.** Prepayment. Provisions for the prepayment of some or all of the principal installments of the Bonds shall be established pursuant to Section 14 of this Resolution and shall be as set forth in the Loan Agreement for each series of Bonds.

**SECTION 7.** Form of Bonds. The Bonds shall be in substantially the following form:

**UNITED STATES OF AMERICA**

**STATE OF ALASKA**

**KENAI PENINSULA BOROUGH**

**(A Municipal Corporation of the State of Alaska)**

NO. \_\_\_\_\_

\$ \_\_\_\_\_

**GENERAL OBLIGATION BOND, SERIES 20XX  
(EDUCATIONAL CAPITAL IMPROVEMENTS)**

REGISTERED OWNER:

PRINCIPAL AMOUNT:

FINAL MATURITY DATE:

INTEREST RATES: See below.

The Kenai Peninsula Borough, Alaska (the “Borough”), a municipal corporation organized and existing under and by virtue of the laws and Constitution of the State of Alaska, hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or its registered assigns, the Principal Amount indicated above in accordance with the installment payment schedule set forth below (unless prepaid prior thereto as provided herein), together with interest on such installments from the date hereof or the most recent date to which interest has been paid or duly provided for, at the interest rates set forth below, on \_\_\_\_\_, \_\_, 20\_\_, and on each \_\_\_\_\_ 1 and \_\_\_\_\_ 1 thereafter:

Year of Principal Installment Payment (_____)	Principal Installment Amount _____	<u>Interest Rate</u>
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Both principal or and interest on this bond are payable in lawful money of the United States of America. Installments of principal of and interest on this bond are payable by check or draft of the Finance Director of the Borough (“Registrar”) mailed (on the date such interest is due) to the Registered Owner hereof at the address appearing on the bond register of the Borough on the 15th day of the month preceding the payment date, provided that the final installment of principal and interest on this bond will be payable upon surrender of this bond at the office of the Registrar. Notwithstanding the foregoing, so long as the Alaska Municipal Bond Bank (the “Bank”) is the Registered Owner of this bond, payments of principal and interest shall be made as provided in the Loan Agreement between the Bank and the Borough (the “Loan Agreement”). Interest shall be computed on the basis of a 360-day year composed of twelve 30-day months.

This bond is a general obligation bond of the Borough, as authorized by the voters of the Borough and issued pursuant to Ordinance No. 2022-20 of the Borough and Resolution No. \_\_\_\_,

adopted by the Borough Assembly on June 21, 2022 and January 3, 2023, respectively (the “Bond Legislation”), to provide funds to finance educational capital improvements in the Borough. Capitalized terms used in this bond and not otherwise defined herein have the meanings given those terms in the Bond Legislation. Reference is hereby made to the Bond Legislation and any resolution supplemental thereto for a description of the rights of the Registered Owner hereof and of the rights and obligations of the Borough thereunder, to all of the provisions of which the Registered Owner, by acceptance of this bond, assents and agrees.

This bond is subject to prepayment prior to maturity as provided in the Bond Legislation and Loan Agreement.

This bond is transferable as provided in the Bond Legislation, (i) only upon the bond register of the Borough, and (ii) upon surrender of this bond together with a written instrument of transfer duly executed by the Registered Owner or the duly authorized attorney of the Registered Owner, and thereupon a new fully registered bond in the same aggregate principal amount and maturity shall be issued to the transferee in exchange therefor as provided in the Bond Legislation and upon the payment of charges, if any, as therein prescribed. The Borough may treat and consider the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or prepayment price, if any, hereof and interest due hereon and for all other purposes whatsoever.

Upon surrender to the Registrar, this bond is interchangeable for a bond or bonds (in denominations of \$5,000 or any integral multiple thereof) of an equal aggregate principal amounts and of the same interest rates and principal amounts as this bond. Such exchange or transfer shall be without cost to the Registered Owner or transferee. The Borough may deem the person in whose name this bond is registered to be the absolute owner hereof the purpose of receiving payment of the principal of and interest on this bond and for any and all other purposes.

This bond is a general obligation of the Borough, and the full faith and credit of the Borough are pledged for the payment of the principal of and interest on this bond as the same shall become due. The Borough has irrevocably pledged and covenanted that it will levy and collect taxes upon all taxable property within the Borough without limitation as to rate or amount, in amounts sufficient, together with other funds legally available therefor, to pay the principal of and interest on the Bonds as the same become due and payable.

IT IS HEREBY CERTIFIED AND RECITED that all conditions, acts or things required by the constitution or statutes of the State of Alaska or the ordinances or resolutions of the Borough to exist, to have happened or to have been performed precedent to or in the issuance of this bond, exist, have happened and have been performed, and that this bond, together with all other indebtedness of the Borough are issued within every debt and other limit prescribed by said constitution, statutes, ordinances or resolutions.

IN WITNESS WHEREOF, THE KENAI PENINSULA BOROUGH, ALASKA, has caused this bond to be signed in its name and on its behalf by its Mayor and its corporate seal to be hereunto impressed or otherwise reproduced and attested by its Clerk, all as of the \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_/specimen/  
Mayor

ATTEST:

\_\_\_\_\_/specimen/  
Borough Clerk

**SECTION 8.** Execution. The Bonds shall be executed in the name of the Borough by the Borough Mayor, or his designee, and the corporate seal of the Borough shall be impressed or otherwise reproduced thereon and attested by the Borough Clerk or acting Borough Clerk. The execution of the Bonds on behalf of the Borough by persons who at the time of the execution are duly authorized to hold the proper offices shall be valid and sufficient for all purposes, although any such person shall have ceased to hold office at the time of delivery of the Bonds or shall not have held office on the date of the Bonds.

**SECTION 9.** Registration.

- (A) The Bonds shall be issued only in registered form as to both principal and interest. The Borough designates the Borough Finance Director as Registrar for the Bonds. The Registrar shall keep, or cause to be kept, the Bond Register at the principal office of the Borough.
- (B) The Borough, in its discretion, may deem and treat the Registered Owner of the Bonds as the absolute owner thereof for all purposes, and neither the Borough nor the Registrar shall be affected by any notice to the contrary. Payment of any such Bonds shall be made only as described in Section 5, but such registration may be transferred as herein provided. All such payments made as described in Section 5 shall be valid and shall satisfy and discharge the liability of the Borough upon such Bonds to the extent of the amount or amounts so paid.
- (C) The Bonds shall be transferred only upon the Bond Register kept by the Registrar. Upon surrender for transfer or exchange of any Bonds at the office of the Registrar, with a written instrument of transfer or authorization for exchange in form and with guaranty of signature satisfactory to the Registrar, duly executed by the registered owner or its duly authorized attorney, the Borough shall execute and the Registrar shall deliver an equal aggregate principal amount of Bonds of the same maturity of any authorized denominations, subject to such reasonable regulations as the Registrar may prescribe and upon payment sufficient to reimburse it for any tax, fee or

other governmental charge required to be paid in connection with such transfer or exchange. Any Bonds surrendered for transfer or exchange shall be canceled by the Registrar. The Registrar shall not be required to transfer or exchange any Bonds after such Bonds have been called for redemption.

- (D) The Borough covenants that, until the Bonds have been surrendered and canceled, it will maintain a system for recording the ownership of the Bonds that complies with the provisions of Section 149 of the Code.

**SECTION 10.** Mutilated, Destroyed, Stolen or Lost Bonds. Upon surrender to the Registrar of mutilated Bonds, the Borough shall execute and deliver new Bonds of like series, maturity and principal amount. Upon filing with the Registrar of evidence satisfactory to the Borough that a Bond has been destroyed, stolen or lost and of the ownership thereof, and upon furnishing the Borough with identification satisfactory to it, the Borough shall execute and deliver a new Bond of like series, maturity and principal amount. The person requesting the authentication and delivery of a new Bond pursuant to this section shall comply with such other reasonable regulations as the Borough may prescribe and pay such expenses as the Borough may incur in connection therewith.

**SECTION 11.** Disposition of the Sale Proceeds of the Bonds. The Finance Director is hereby authorized and directed to create a fund designated as the “Educational Capital Improvements, Series XX” for each series of Bonds” to be used for the payment of Costs of the Projects. The proceeds of each series of Bonds (except for accrued interest, if any, which shall be applied to payment of interest on such series of Bonds) shall be deposited into the Educational Capital Improvements, Series XX Fund to be used to pay costs of issuing the related series of Bonds and Costs of the Projects, as authorized by the Election Ordinance and Proposition No. 2; provided however, that any bond premium exceeding the costs of issuing the series of Bonds shall be deposited into the fund for payment of principal and interest on such series of Bonds, or for other lawfully authorized purposes.

**SECTION 12.** Tax Covenants. The Borough covenants to comply with any and all applicable requirements set forth in the Code in effect from time to time to the extent that such compliance shall be necessary for the exclusion of the interest on Bonds from gross income for federal income tax purposes. The Borough covenants that it will make no use of the proceeds of the Bonds which will cause the Bonds to be “arbitrage bonds” subject to federal income taxation by reason of Section 148 of the Code. The Borough covenants that it will not take or permit any action that would cause the Bonds to be “private activity bonds” as defined in Section 141 of the Code.

The Borough covenants to comply with the tax certificate executed upon issuance of the Bonds unless it receives advice from nationally recognized bond counsel or the Internal Revenue Service that certain provisions have been amended or no longer apply to the Bonds.

**SECTION 13.** Defeasance. In the event money and/or non-callable direct obligations of, or obligations the timely payment of principal of and interest on which are unconditionally guaranteed by, the United States of America or an agency or instrumentality of the United States of America, maturing at such times and bearing interest to be earned thereon in amounts sufficient to redeem and retire any or all principal installments of each series of Bonds in accordance with the terms of such Bond are set aside in a special trust account to effect such redemption or retirement and such money and the principal of and interest on such obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made to pay or secure the payment of the principal of and interest on such principal installments and such principal installments shall be deemed not to be outstanding.

**SECTION 14.** Sale of the Bonds; Loan Agreement. The Borough Mayor and Borough Finance Director each is hereby authorized to negotiate the sale of the Bonds to the Bond Bank or financial institution on terms and conditions consistent with the Election Ordinance and this Resolution and as set forth in a Loan Agreement. Such Agreement shall include the aggregate principal amount, the principal installment payment schedule, interest rates, the interest rate payment schedule and prepayment provisions, all as provided for in this Resolution. Approval of the Borough Mayor or Borough Finance Director of the terms and conditions of a Loan Agreement shall be evidenced by execution of such Agreement. The Borough Mayor or Borough Finance Director is hereby authorized to execute and deliver a Loan Agreement, and a continuing disclosure undertaking if required by the purchaser of the Bonds to comply with Rule 15c2-12. The Borough Mayor and Borough Finance Director are each authorized to execute and deliver all such documents as may be necessary to effectuate issuances of the Bonds on behalf of the Borough.

**SECTION 15.** Authority of Officers. The Borough Mayor, the acting Borough Mayor, the Borough Finance Director, the acting Borough Finance Director, the Borough Clerk and the acting Borough Clerk are, and each of them hereby is, authorized and directed to do and perform all things and determine all matters not determined by this Resolution, or to be determined by a subsequent ordinance or resolution, to the end that the Borough may carry out its obligations under the Bonds, the Loan Agreement, and this Resolution.

**SECTION 16.** Amendatory and Supplemental Resolutions.

- (A) The Assembly from time to time and at any time may adopt a resolution or resolutions supplemental hereto, which resolution or resolutions thereafter shall become a part of this Resolution, for any one or more of the following purposes:
  - (1) To add to the covenants and agreements of the Borough in this Resolution, other covenants and agreements thereafter to be



observed, or to surrender any right or power herein reserved to or conferred upon the Borough.

- (2) To make such provisions for the purpose of curing any ambiguities or of curing, correcting or supplementing any defective provision contained in this Resolution or in regard to matters or questions arising under this Resolution as the Assembly may deem necessary or desirable and not inconsistent with this Resolution and which shall not adversely affect the interest of the Registered Owner of the Bonds.

Any such supplemental resolution may be adopted without the consent of the Registered Owner of the Bonds at any time outstanding, notwithstanding any of the provisions of subsection (B) of this section.

- (B) With the consent of a bond insurer, if any, or the Registered Owners of not less than 60 percent in aggregate principal amount of the affected Bonds at the time outstanding, the Assembly may adopt a resolution or resolutions supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Resolution or of any supplemental resolution; provided, however that no such supplemental resolution shall:
  - (1) extend the stated maturity date of any of the Bonds, or reduce the amount or change the payment date of any principal installment, or reduce the rate of interest thereon, or extend the time of payments of interest from their due date, or reduce any prepayment or redemption price, without the written consent of the Registered Owner of each Bond so affected; or
  - (2) reduce the aforesaid percentage of Registered Owners required to approve any such supplemental resolution, without the written consent of all Registered Owners of each Bond so affected and then outstanding.

It shall not be necessary for the consent of the Registered Owners of the Bond under this subsection to approve the particular form of any proposed supplemental resolution, but it shall be sufficient if such consent approves the substance thereof.

- (C) Upon the adoption of any supplemental resolution under this section, this Resolution shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Resolution of the Borough and the Registered Owners of the outstanding Bond so affected shall thereafter be subject in all respects to such modification and amendment, and all the terms and conditions of the

supplemental resolution shall be deemed to be part of the terms and conditions of this Resolution for any and all purposes.

- (D) Any Bond executed and delivered after the execution of any supplemental resolution adopted under this section may bear a notation as to any matter provided for in such supplemental resolution, and if such supplemental resolution shall so provide, a new Bond modified so as to conform, in the opinion of the Borough, to any modification of this Resolution contained in any such supplemental resolution may be prepared by the Borough and delivered without cost to the Registered Owner of the Bond then outstanding, upon surrender for cancellation of such Bond in equal aggregate principal amounts.

**SECTION 17. No Recourse.** No recourse shall be had for the payment of the principal of or the interest on the Bonds or for any claim based thereon or on this Resolution against any member of the Assembly or officer of the Borough or any person executing the Bonds. The Bonds are not and shall not be in any way a debt or liability of the State of Alaska *or* of any political subdivision thereof, except the Borough, and do not and shall not create or constitute an indebtedness or obligation, either legal, moral or otherwise, of said State or of any political subdivision thereof, except the Borough.

**SECTION 18. Severability.** If any one or more of the provisions of this Resolution shall be declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed separable from the remaining provisions of this Resolution and shall in no way affect the validity of the other provisions of this Resolution or of the Bonds.

**SECTION 19. Effective Date.** This Resolution shall take effect immediately upon its adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 3RD DAY OF JANUARY 2023.**

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Brent Johnson, Assembly President

ATTEST:

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Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

# Kenai Peninsula Borough

## Finance Department

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### MEMORANDUM

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

**THRU:** Mike Navarre, Mayor *MN*  
John Hedges, Purchasing & Contracting Director *JH*

**FROM:** Brandi Harbaugh, Finance Director *BH*

**DATE:** December 21, 2022

**SUBJECT:** Resolution 2023-003, Authorizing the Issuance and Sale of General Obligation Bonds, in One or More Series, of the Kenai Peninsula Borough in the Principal Amount of Not to Exceed \$65,550,000 to Finance Costs of Certain Educational Capital Improvements in the Borough; Authorizing the Sale of Such Bonds; Fixing Certain Details of Such Bonds; Pledging the Full Faith and Credit of the Borough to the Payment Thereof; and Providing for Related Matters (Mayor)

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This resolution authorizes the issuance of the Borough's general obligation bond, in an amount not to exceed \$65,550,000, for educational capital improvement projects in the Borough, authorizes the Borough Mayor and Finance Director to sell the general obligation bonds to the Alaska Municipal Bond Bank pursuant to terms of a loan agreement and authorizes the Mayor to execute the loan agreement. In addition, the resolution fixes certain details of the agreement.

This is a necessary next step to move forward with the educational capital improvement projects, as approved by a majority of the voters of the Borough at the October 4, 2022 regular election.

Your consideration is appreciated.

Introduced by:

Mayor

Date:

01/03/23

Action:

Vote:

**KENAI PENINSULA BOROUGH  
RESOLUTION 2023-004**

**A RESOLUTION AUTHORIZING THE KENAI PENINSULA BOROUGH TO ISSUE ITS CENTRAL EMERGENCY SERVICE AREA GENERAL OBLIGATION BOND IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$16,500,000, TO FINANCE THE COSTS OF A REPLACEMENT FIRE STATION TO BE LOCATED IN THE CENTRAL EMERGENCY SERVICE AREA, FIXING CERTAIN DETAILS OF SUCH BOND; PLEDGING THE FULL FAITH AND CREDIT OF THE CENTRAL EMERGENCY SERVICE AREA TO THE PAYMENT THEREOF; AUTHORIZING THE SALE OF SUCH BOND, AND PROVIDING FOR RELATED MATTERS**

**WHEREAS,** the Kenai Peninsula Borough, Alaska (the “Borough”) is a second class borough and is authorized to take the actions set forth in this resolution; and

**WHEREAS,** at an election held in the Borough, on October 4, 2022, a majority of the qualified electors of the Borough and Central Emergency Service Area (“Service Area”) voted in favor of authorizing the issuance of general obligation bonds of the Service Area, in an aggregate principal amount not to exceed \$16,500,000, to finance costs of planning, designing, site preparations, construction, acquiring, renovating, installing, and equipping a replacement fire station, in the Service Area (“Proposition No. 3”), as authorized by Ordinance No. 2022-24 of the Borough, passed and approved by the Borough Assembly on July 5, 2022 (the “Election Ordinance”); and

**WHEREAS,** Section 29.47.410 of the Alaska Statutes provides that the Borough Assembly by ordinance or resolution may provide for the form and manner of sale of bonds and notes; and

**WHEREAS,** it is in the best interest of the Borough and its residents that the Borough proceed to plan, design, construct, and equip the replacement fire station to be located in the Service Area as described in Proposition 3 (the “Project”), and issue not to exceed \$16,500,000 principal amount of general obligation bonds of the Service Area referred to in Proposition No. 3, constituting the unsold general obligation bonds referred to therein, to pay costs of the Project and costs of issuance of the bonds; and the Assembly finds that it is necessary and desirable and in the public interest to authorize the issuance of the bonds in accordance with the terms and conditions set forth in this resolution; and

**WHEREAS,** the Borough Assembly deems it necessary and desirable to delegate to each the Borough Mayor and Borough Finance Director the authority to sell the general obligations bonds referred to herein to the Alaska Municipal Bond Bank or financial institution pursuant to the terms of a loan agreement, as determined to be in the best interests of the Borough and in accordance with the terms and conditions set forth in this resolution.

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

**SECTION 1.** Definitions. The following terms shall have the following meanings in this resolution:

- (A) “Assembly” means the Assembly of the Borough, as the general legislative authority of the Borough, as the same shall be duly and regularly constituted from time to time.
- (B) “Bond” means the “Kenai Peninsula Borough Central Emergency Service Area General Obligation Bond” of the Borough, the issuance and sale of which is authorized herein as evidence of the indebtedness referred to in Proposition 3.
- (C) “Bond Bank” means the Alaska Municipal Bond Bank, a public corporation and instrumentality of the State of Alaska, created pursuant to the provisions of Chapter 85, Title 44, Alaska Statutes, as amended.
- (D) “Bond Bank Bonds” means the general obligation bonds to be issued by the Bond Bank, a portion of the proceeds of which will be used to purchase the Bond.
- (E) “Bond Register” means the registration books maintained by the Registrar, which include the names and addresses of the owners or nominees of the Registered Owners of the Bond.
- (F) “Borough” means the Kenai Peninsula Borough, a municipal corporation of the State of Alaska, organized as a second class borough under Title 29 of the Alaska Statutes.
- (G) “Borough Finance Director” means the Finance Director of the Borough.
- (H) “Borough Mayor” means the Mayor of the Borough.
- (I) “Code” means the Internal Revenue Code of 1986, as amended from time to time, together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued or amended with respect thereto by the United States Treasury Department or the Internal Revenue Service.

- (J) “Cost” or “Costs” means the cost of planning, designing, site preparation, constructing, acquiring, renovating, installing and equipping the Project, including interest on the Bond during the period of planning, designing, site preparation, constructing, acquiring, renovating, installing and equipping the Project, the cost whether incurred by the Borough or by another of field surveys and advance planning undertaken in connection with the Project properly allocable to the Project, the cost of acquisition of any land or interest therein required as the site or sites of the Project or for use in connection therewith, the cost of any indemnity and surety bonds and premiums on insurance incurred in connection with the Project prior to or during construction thereof, all related direct administrative and inspection expenses whether incurred by the Borough or by another in connection with the Project prior to or during construction thereof and allocation portions of direct costs of the Borough, legal fees, costs of issuance of the Bond by the Borough, including financing charges and fees and expenses of bond counsel, financial advisors and consultants in connection therewith, the cost of any bond insurance premium, the cost of audits, the cost of all machinery, apparatus and equipment, cost of engineering, architectural services, designs, plans, specifications and surveys, estimates of cost, the reimbursement of all moneys advanced from whatever source for the payment of any item or items of cost of the Project, and all other expenses necessary or incidental to determining the feasibility or practicability of the Project, and such other expenses not specified herein as may be necessary or incidental to the acquisition and development of the Project, the financing thereof and the putting of the same in use and operation.
- (K) “Election Ordinance” shall have the meaning set forth in the recitals to this Resolution.
- (L) “Loan Agreement” means the written offer to purchase the Bond however denominated (including offer, purchase agreement, purchase contract, and loan agreement), specifying the matters required to be set forth therein by this resolution, which offer is authorized to be accepted by the Borough pursuant to this resolution, if consistent with the provisions of this resolution.
- (M) “Project” means the replacement fire station located in and for the Service Area and more fully described in the Election Ordinance and Proposition 3.
- (N) “Proposition 3” shall have the meaning set forth in the recitals to this Resolution.
- (O) “Record Date” means, with, (i) with respect to an interest payment date, unless otherwise specified in the Loan Agreement, the close of business of the Registrar on the 15<sup>th</sup> day of the month preceding an interest payment date; and (ii) with respect to a prepayment or redemption date, the close of

business of the Registrar on the date on which the Registrar prepares the notice of prepayment or redemption.

- (P) “Registered Owner” means the person named as the registered owner of a Bond in the Bond Register.
- (Q) “Registrar” means the Borough Finance Director, or any successor that the Borough may appoint by resolution, for the purposes of registering and authenticating the Bond, maintaining the Bond Register, and paying the principal of and interest on the Bond.
- (R) “Resolution” means this Resolution of the Assembly.
- (S) “Rule” means Rule 15c2-12 of the United Securities and Exchange Commission under the Securities Exchange Act of 1934.
- (T) “Service Area” means the Central Emergency Service Area of the Borough.

**SECTION 2.** Authorization of Bond and Purpose of Issuance For the purpose of providing funds required to pay all or a portion of the Costs of the Project, the Borough hereby authorizes and determines to issue and sell the Bond in the aggregate principal amount of not to exceed \$16,500,000. The Bond shall be a general obligation bond of the Service Area, authorized by the Election Ordinance and approved by the qualified electors of the Borough and Service Area at the general election held on October 4, 2022, to finance costs of planning, designing, site preparations, construction, acquiring, renovating, installing, and equipping a replacement fire station and pay costs of issuance of the Bond. The Bond shall be designated “Kenai Peninsula Borough, Alaska, Central Emergency Service Area General Obligation Bond,” with such additional series, year, and other designation as the Borough Mayor or the Borough Finance Director may fix and determine.

The Borough Mayor and Borough Finance Director are each hereby authorized to determine whether the Bond shall be sold to the Bond Bank or a financial institution pursuant to the terms of a Loan Agreement. If the Bond is sold to the Bond Bank, such Bond will be issued as a single bond; if the Bond is sold to a financial institution, such Bond may be issued as serial and term bonds.

The Borough has ascertained and hereby determines that each and every matter and thing as to which provision is made in this Resolution is necessary in order to carry out and effectuate the purpose of the Borough in accordance with the Constitution the statutes of the State of Alaska and Borough legislation to incur the indebtedness and issue the Bonds as referred to in Proposition 3.

**SECTION 3.** Obligation of Bond. The Bond shall be an obligation of the Borough, and the full faith and credit of the Service Area are hereby pledged to the payment of the principal of and interest on the Bond. The Borough hereby irrevocably pledges



and covenants that it will levy and collect taxes upon all taxable property within the Service Area without limitation as to rate or amount, in amounts sufficient, together with other funds legally available therefor, to pay the principal of and interest on the Bond as the same become due and payable.

**SECTION 4.** Date, Maturities, Interest Rates, and Other Details of Bond. The Bond shall be dated the date of sale and delivery to the purchaser, shall be in the denomination of \$5,000 or any integral multiple thereof, or such other denominations as may be determined by the Mayor or Finance Director, and shall be numbered in such manner and with any additional designation as the Registrar deems necessary for purposes of identification and control.

The Bond shall bear interest from the date thereof, and semiannually thereafter of each year. Interest shall be computed on the basis of a 360-day year composed of twelve 30-day months. The Mayor and Finance Director are each authorized to fix and determine the principal installment payment dates and the rate of interest on each principal installment of the Bond, provided that (i) the true interest cost of the Bond shall not exceed five percent (5%) unless approved by resolution of the Assembly; and (ii) the final principal installment date of the Bond shall be no later than twenty (20) years following the year in which the Bond is issued.

**SECTION 5.** Place and Medium of Payment. Both principal of and interest on the Bond shall be payable in lawful money of the United States of America which, on the respective dates of payment thereof, shall be legal tender for the payment of public and private debts. If the Bond is registered in the name of the Bond Bank, payments of principal and interest thereon shall be made as provided in the Loan Agreement. If the Bond is not owned by the Bond Bank, payments of principal and interest on the Bond will be made by check or draft mailed by first class mail to the Registered Owners of the Bond at the addresses for such Registered Owners appearing on the Bond Register on the 15th day of the month preceding the payment date, or, at the request and sole expense of a Registered Owner made prior to the Record Date, by wire transfer to a bank account in the United States on the payment date, provided that the final installment of principal and interest on the Bond will be payable at the principal office of the Registrar.

**SECTION 6.** Prepayment. Provisions for the prepayment of some or all of the principal installments of the Bond shall be established pursuant to Section 15 of this resolution and shall be as set forth in the Loan Agreement.

**SECTION 7.** Form of Bond. The Bond shall be in substantially the following form, with such variations, omissions and insertions as may be required or permitted by this Resolution:

**UNITED STATES OF AMERICA**

**STATE OF ALASKA**

**KENAI PENINSULA BOROUGH**

**(A Municipal Corporation of the State of Alaska)**

NO. \_\_\_\_

\$ \_\_\_\_\_

**CENTRAL EMERGENCY SERVICE AREA  
GENERAL OBLIGATION BOND, 20XX**

REGISTERED OWNER:

PRINCIPAL AMOUNT:

FINAL MATURITY DATE:

INTEREST RATES: See below.

The Kenai Peninsula Borough, Alaska (the “Borough”), a municipal corporation organized and existing under and by virtue of the laws and Constitution of the State of Alaska, hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or its registered assigns, the Principal Amount indicated above in accordance with the installment payment schedule set forth below (unless prepaid prior thereto as provided herein), together with interest on such installments from the date hereof or the most recent date to which interest has been paid or duly provided for, at the interest rates set forth below, on \_\_\_\_\_, \_\_, 20\_\_, and on each \_\_\_\_\_ 1 and \_\_\_\_\_ 1 thereafter:

Year of Principal  
Installment Payment  
(\_\_\_\_\_)

Principal Installment  
Amount

Interest Rate

Both principal or and interest on this bond are payable in lawful money of the United States of America. Installments of principal of and interest on this bond are payable by check or draft of the Finance Director of the Borough (“Registrar”) mailed (on the date such interest is due) to the Registered Owner hereof at the address appearing on the bond register of the Borough on the 15th day of the month preceding the payment date, provided that the final installment of principal and interest on this bond will be payable upon surrender of this bond at the office of the Registrar. Notwithstanding the foregoing, so long as the Alaska Municipal Bond Bank (the “Bank”) is the Registered Owner of this bond, payments of principal and interest shall be made as provided in the Loan Agreement between the Bank and the Borough (the “Loan Agreement”). Interest shall be computed on the basis of a 360-day year composed of twelve 30-day months.

This bond is a general obligation bond of the Central Emergency Service Area located in

the Kenai Peninsula Borough, Alaska (the “Bond”), as authorized by the voters of the Central Emergency Service Area and issued pursuant to Ordinance No. 2024-20 of the Borough and Resolution No. \_\_\_, adopted by the Borough Assembly on July 5, 2022 and January 3, 2023, respectively (the “Bond Legislation”), to provide funds to finance costs of a replacement fire station in the Central Emergency Service Area. Capitalized terms used in this bond and not otherwise defined herein have the meanings given those terms in the Bond Legislation. Reference is hereby made to the Bond Legislation and any resolution supplemental thereto for a description of the rights of the Registered Owner hereof and of the rights and obligations of the Borough thereunder, to all of the provisions of which the Registered Owner, by acceptance of this bond, assents and agrees.

This bond is subject to prepayment prior to maturity as provided in the Bond Legislation and Loan Agreement.

This bond is transferable as provided in the Bond Legislation (i) only upon the Bond Register and (ii) upon surrender of this bond together with a written instrument of transfer duly executed by the Registered Owner or the duly authorized attorney of the Registered Owner, and thereupon a new fully registered Bond in the same aggregate principal amount and maturity shall be issued to the transferee in exchange therefor as provided in the Bond Legislation and upon the payment of charges, if any, as therein prescribed. The Borough and the Registrar may treat and consider the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or prepayment price, if any, hereof and interest due hereon and for all other purposes whatsoever.

Upon surrender to the Registrar, this bond is interchangeable for a bond or bonds (in denominations of \$5,000 or any integral multiple thereof) of an equal aggregate principal amounts and of the same interest rates and principal amounts as this bond. Such exchange or transfer shall be without cost to the Registered Owner or transferee. The Borough may deem the person in whose name this bond is registered to be the absolute owner hereof the purpose of receiving payment of the principal of and interest on this bond and for any and all other purposes.

This bond is an obligation of the Borough, and the full faith and credit of the Central Emergency Service Area are pledged to the payment of the principal of and interest on this bond. The Borough has irrevocably pledged and covenanted that it will levy and collect taxes upon all taxable property within the Central Emergency Service Area without limitation as to rate or amount, in amounts sufficient, together with other funds legally available therefor, to pay the principal of and interest on the Bond as the same become due and payable.

IT IS HEREBY CERTIFIED AND RECITED that all conditions, acts or things required by the constitution or statutes of the State of Alaska or the ordinances or resolutions of the Borough to exist, to have happened or to have been performed precedent to or in the issuance of this bond, exist, have happened and have been performed, and that this bond, together with all other indebtedness of the Borough, are issued within every debt and other limit prescribed by said constitution, statutes, ordinances or resolutions.

IN WITNESS WHEREOF, THE KENAI PENINSULA BOROUGH, ALASKA, has

caused this bond to be signed in its name and on its behalf by its Mayor and its corporate seal to be hereunto impressed or otherwise reproduced and attested by its Clerk, all as of the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_/specimen/  
Mayor

ATTEST:

\_\_\_\_\_/specimen/  
Borough Clerk

**SECTION 8.** Execution. The Bond shall be executed in the name of the Borough by the Borough Mayor and the corporate seal of the Borough shall be impressed or otherwise reproduced thereon and attested by the Borough Clerk. The execution of the Bond on behalf of the Borough by persons who at the time of the execution are duly authorized to hold the proper offices shall be valid and sufficient for all purposes, although any such person shall have ceased to hold office at the time of delivery of the Bond or shall not have held office on the date of the Bond.

**SECTION 9.** Registration.

- (A) The Bond shall be issued only in registered form as to both principal and interest. The Borough designates the Borough Finance Director as Registrar. The Registrar shall keep, or cause to be kept, the Bond Register at the principal office of the Borough.
- (B) The Borough, in its discretion, may deem and treat the Registered Owner of the Bond as the absolute owner thereof for all purposes, and neither the Borough nor the Registrar shall be affected by any notice to the contrary. Payment of any such Bond shall be made only as described in Section 5, but such registration may be transferred as herein provided. All such payments made as described in Section 5 shall be valid and shall satisfy and discharge the liability of the Borough upon such Bond to the extent of the amount or amounts so paid.
- (C) The Bond shall be transferred only upon the Bond Register kept by the Registrar. Upon surrender for transfer or exchange of the Bond at the office of the Registrar, with a written instrument of transfer or authorization for exchange in form and with guaranty of signature satisfactory to the Registrar, duly executed by the registered owner or its duly authorized attorney, the Borough shall execute and the Registrar shall delivery an equal aggregate principal amount of Bond of the same maturity of any authorized denominations, subject to such reasonable regulations as the Registrar may prescribe and upon payment sufficient to reimburse it for any tax, fee or other governmental charge required to be paid in connection with such

transfer or exchange. Any Bond surrendered for transfer or exchange shall be canceled by the Registrar. The Registrar shall not be required to transfer or exchange any Bond after such Bond have been called for redemption.

- (D) The Borough covenants that, until the Bond has been surrendered and canceled, the Borough will maintain a system for recording the ownership of the Bond that complies with the provisions of Section 149 of the Code.

**SECTION 10.** Mutilated, Destroyed, Stolen or Lost Bond. Upon surrender to the Registrar of a mutilated Bond, the Borough shall execute and deliver a new Bond or Bonds of the same series equal in aggregate principal amount. Upon filing with the Registrar of evidence satisfactory to the Borough that a Bond has been destroyed, stolen or lost and of the ownership thereof, and upon furnishing the Borough with indemnity satisfactory to it, the Borough shall execute and deliver a new Bond or Bonds of the same series equal in aggregate principal amount. The person requesting the execution and delivery of a new Bond under this Section shall comply with such other reasonable regulations as the Borough may prescribe and pay such expenses as the Borough may incur in connection therewith.

**SECTION 11.** Disposition of Sale Proceeds of the Bond The Finance Director is hereby authorized and directed to create a fund designated as the “CES – 2023 New Fire Station 1” for the Bond to be used for the payment of Costs of the Project. The proceeds of the Bond (except for accrued interest, if any, which shall be applied to payment of interest on the Bond) shall be deposited into the CES – Replacement Fire Station – 2023 Fund to be used to pay costs of issuing the Bond and Costs of the Project, as authorized by the Election Ordinance and Proposition No. 3; provided however, that any bond premium exceeding the costs of issuing the Bond shall be deposited into the fund for payment of principal and interest on the Bond, or for other lawfully authorized purposes.

**SECTION 12.** Tax Covenants. The Borough covenants to comply with any and all applicable requirements set forth in the Code in effect from time to time to the extent that such compliance shall be necessary for the exclusion of the interest on the Bond from gross income for federal income tax purposes. The Borough covenants that it will make no use of the proceeds of the Bond that will cause the Bond to be an “arbitrage bonds” subject to federal income taxation by reason of Section 148 of the Code. The Borough covenants that it will not take or permit any action that would cause the Bond to be “private activity bonds” as defined in Section 141 of the Code.

The Borough covenants to comply with the tax certificate executed upon issuance of the Bond unless it receives advice from nationally recognized bond counsel or the Internal Revenue Service that certain provisions have been amended or no longer apply to the Bond.

**SECTION 13.** Amendatory and Supplemental Resolutions.

- (A) The Assembly from time to time and at any time may adopt a resolution or resolutions supplemental hereto, which resolution or resolutions thereafter shall become a part of this resolution, for any one or more of the following purposes:

- (1) To add to the covenants and agreements; of the Borough in this Resolution, other covenants and agreements thereafter to be observed, or to surrender any right or power herein reserved to or conferred upon the Borough.
- (2) To make such provisions for the purpose of curing any ambiguities or of curing, correcting or supplementing any defective provision contained in this Resolution or in regard to matters or questions arising under this Resolution as the Assembly may deem necessary or desirable and not inconsistent with this Resolution and which shall not adversely affect the interests of the Registered Owners.

Any such supplemental resolution may be adopted without the consent of the Registered Owners, notwithstanding any of the provisions of subsection (B) of this Section.

- (B) With the consent of each Registered Owners of not less than 60 percent in aggregate principal amount of the affected Bond the Assembly may adopt a resolution or resolutions supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Resolution or of any supplemental resolution.

It shall not be necessary for the consent of a Registered Owner under this subsection to approve the particular form of any proposed supplemental resolution, but it shall be sufficient if such consent approves the substance thereof.

- (C) Upon the adoption of any supplemental resolution under this Section, this Resolution shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Resolution of the Borough and the Registered Owners of the outstanding Bond so affected shall thereafter be subject in all respects to such modification and amendment, and all the terms and conditions of the supplemental resolution shall be deemed to be part of the terms and conditions of this Resolution for any and all purposes.
- (D) Any Bond executed and delivered after the execution of any supplemental resolution adopted under this Section may bear a notation as to any matter provided for in such supplemental resolution, and if such supplemental resolution shall so provide, a new Bond modified so as to conform, in the opinion of the Borough, to any modification of this Resolution contained in any such supplemental resolution may be prepared by the Borough and

delivered without cost to the Registered Owner, upon surrender for cancellation of the Bond.

**SECTION 14.** Defeasance. In the event money and/or non-callable direct obligations of, or obligations the timely payment of principal of and interest on which are unconditionally guaranteed by, the United States of America or an agency or instrumentality of the United States of America, maturing at such times and bearing interest to be earned thereon in amounts sufficient to redeem and retire any or all principal installments of the Bond in accordance with the terms of the Bond are set aside in a special trust account to effect such redemption or retirement and such money and the principal of and interest on such obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made to pay or secure the payment of the principal of and interest on such principal installments and such principal installments shall be deemed not to be outstanding.

**SECTION 15.** Sale of Bond; Loan Agreement. The Bond shall be executed, sold and delivered to the Bond Bank. The Borough has been advised by the Bond Bank that bond market conditions are fluctuating and that the most favorable market conditions for the sale of the Bond Bank Bonds may not occur on the date of a regular Assembly meeting. The Assembly has determined that it would be inconvenient to hold a special meeting on short notice to approve the terms of each series of the Bond. Therefore, the Assembly hereby determines that it is in the best interest of the Borough to delegate the authority to approve the terms of the Bond as provided herein. Each of the Borough Mayor and the Borough Finance Director is hereby authorized to determine the aggregate principal amount of the Bond, the principal installment payments and dates, the interest rate payment schedule, and prepayment provisions, if any, for the Bond, so that such terms of the Bond conform to the terms of the Bond Bank Bonds, provided that (i) no principal installment of the Bond shall exceed the principal amount of the corresponding maturity of the Bond Bank Bonds allocated to making a loan to the Borough and (ii) the interest rate on each principal installment shall not exceed the interest rate on the corresponding maturity of the Bond Bank Bonds. Based upon the foregoing determinations, the Borough Mayor and the Borough Finance Director each is authorized to negotiate, execute and deliver each Loan Agreement. The Borough Mayor and Borough Finance Director are each authorized to execute and deliver all such documents as may be necessary to effectuate issuances of the Bond on behalf of the Borough including, a continuing disclosure undertaking if required by the purchaser of the Bonds to comply with Rule 15c2-12.

**SECTION 16.** Authority of Officers. The Borough Mayor, the acting Borough Mayor, the Borough Finance Director, the acting Borough Finance Director, and the Borough Clerk or acting Borough Clerk are, and each of them hereby is, authorized and directed to do and perform all things and determine all matters not determined by this Resolution, to the end that the Borough may carry out its obligations under

the Bond and this Resolution.

**SECTION 17.** No Recourse. No recourse shall be had for the payment of the principal of or the interest on the Bond or for any claim based thereon or on this Resolution against any member of the Assembly or officer of the Borough or any person executing the Bond. The Bond is not and shall not be in any way a debt or liability of the State of Alaska or of any political subdivision thereof, except the Borough, and do not and shall not create or constitute an indebtedness or obligation, either legal, moral or otherwise, of the State of Alaska or of any political subdivision thereof, except the Borough.

**SECTION 18.** Severability. If any one or more of the provisions of this Resolution shall be declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed separable from the remaining provisions of this Resolution and shall in no way affect the validity of the other provisions of this Resolution or of the Bond.

**SECTION 19.** Effective Date. This resolution shall take effect upon adoption by the Assembly.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 3RD DAY OF JANUARY, 2023.**

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Brent Johnson, Assembly President

ATTEST:

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Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:



# Kenai Peninsula Borough

## Finance Department

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### MEMORANDUM

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

**THRU:** Mike Navarre, Mayor *MN*  
Roy Browning, CES Chief *RB*

**FROM:** Brandi Harbaugh, Finance Director *BH*

**DATE:** December 21, 2022

**SUBJECT:** Resolution 2023-004, Authorizing the Kenai Peninsula Borough to Issue Its Central Emergency Service Area General Obligation Bond in an Aggregate Principal Amount Not To Exceed \$16,500,000, to Finance the Costs of a Replacement Fire Station to be Located in the Central Emergency Service Area, Fixing Certain Details of Such Bond; Pledging the Full Faith and Credit of the Central Emergency Service Area to the Payment thereof; Authorizing the Sale of Such Bond, and Providing for Related Matters (Mayor)

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This resolution authorizes the issuance of the Borough's CES general obligation bond in an amount not to exceed \$16,500,000, authorizes the Borough Mayor and Finance Director to sell the general obligation bonds to the Alaska Municipal Bond Bank pursuant to terms of a loan agreement and authorizes the Mayor to execute the loan agreement. In addition, the resolution fixes certain details of the agreement.

This is a necessary next step to move forward with the project to replace the CES 1 Fire Station, as approved by a majority of the voters of the Borough at the October 4, 2022 regular election.

Your consideration is appreciated.

Introduced by: Ecklund  
Date: 01/03/23  
Action:  
Vote:

**KENAI PENINSULA BOROUGH  
RESOLUTION 2023-005**

**A RESOLUTION OF INTENT BY THE KENAI PENINSULA BOROUGH ASSEMBLY  
ESTABLISHING THAT FINANCING OF ENERGY AND RESILIENCE  
IMPROVEMENT PROJECTS THROUGH ASSESSMENTS SERVES A VALID PUBLIC  
PURPOSE AND RELATED MATTERS (PACER PROGRAM)**

**WHEREAS,** the Alaska State Legislature enacted the Municipal Property Assessed Clean Energy and Resilience Act ("PACER Act"), Alaska Statutes 29.55, as amended, restated, supplemented or otherwise modified from time-to-time, authorizing local governments to establish an energy and resilience improvement assessment program; and

**WHEREAS,** the PACER Act allows local governments to finance the installation or modification of permanent improvements, fixed to existing privately owned commercial or industrial property, to achieve reduced energy consumption or demand in areas designated by local governments; and

**WHEREAS,** installation or modification by property owners of energy and resilience improvement upgrades to commercial or industrial property in the Kenai Peninsula Borough will serve a public purpose by reducing energy costs, stimulating the economy, improving property valuation, reducing greenhouse gas emissions and creating jobs; and

**WHEREAS,** the Kenai Peninsula Borough, finds that it is convenient and advantageous to establish a program under the PACER Act and designate the geographic area on an areawide basis within the Kenai Peninsula Borough's jurisdiction as an area within which Kenai Peninsula Borough and the record owners of qualified real property may participate under a program established by the PACER Act and enter into financing arrangements in connection therewith;

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

**SECTION 1.** The recitals to this resolution are true and correct and are incorporated into this resolution for all purposes.

**SECTION 2.** For purposes of this resolution, "PACER assessment" shall mean those assessments authorized by the PACER Act.

**SECTION 3.** The Kenai Peninsula Borough hereby determines that establishing a property assessed clean energy and resilience program and financing energy and resilience improvement projects through PACER assessment serves a valid public purpose by reducing energy costs, stimulating the economy, improving property valuation, reducing greenhouse gas emissions, and creating jobs.

**SECTION 4.** The Kenai Peninsula Borough intends to allow privately owned commercial or industrial property owners to make contractual PACER assessment to repay financing for qualified energy and resilience improvement projects under, and pursuant to, the terms of a municipal property assessed clean energy and resilience program subject to, and pursuant to, the PACER Act (“PACER Program”).

**SECTION 5.** Qualified energy and resilience new construction or improvement projects under the PACER Program will include those projects which are fixed to new construction or existing privately owned commercial or industrial property and that (1) are energy improvement projects designed to reduce energy consumption or demand, energy costs, or missions affecting local air quality, including a product, device, or interacting group of products or devices that use energy technology to generate electricity, provide thermal energy, or regulate temperature; or (2) improve building resilience; resilience improvement projects include projects for seismic improvements, storm water management, flood mitigation and protection, fire hardening, fire or wind resistance, erosion management, snow load management, micro grids for energy storage and backup power generation, water or wastewater efficiency including reuse and energy recovery, electric vehicle charging stations, retrofitting that improves the envelope, structure, or systems of the building, and any other improvement project approved by a municipality as a resilience improvement project.

PACER assessment may not be imposed to repay financing of facilities for undeveloped lots or lots undergoing development at the time of an assessment.

**SECTION 6.** To the extent permitted by law, the entire geographic area within Kenai Peninsula Borough’s jurisdiction may be available for energy and resilience improvement projects under the PACER Program.

**SECTION 7.** Financing for qualified energy and resilience new construction and improvement projects under the PACER Program will be provided by third-party capital providers under a written contract with property owners. The contracts will provide for capital providers to advance funds to property owners on such terms as are agreed between the capital providers and property owners for installation or modification of energy improvement projects, and service the debt secured by PACER assessment through the Kenai Peninsula Borough. The proposed arrangements for financing energy improvement projects may authorize property owners to (1) purchase directly the related equipment and materials for energy improvement and resilience projects; and (2) contract directly, including through lease, a power purchase agreement, or other service contract, for energy and resilience improvement projects.

The Kenai Peninsula Borough does not intend to finance or fund any loan under the PACER Program, rather, the Kenai Peninsula Borough intends to serve only as a Program sponsor to facilitate loan repayment by including PACER assessment on real property tax bills for the improved property, and shall incur no liability for the loan.

Benefited property owners will execute written contracts with the Kenai Peninsula Borough to impose a PACER Program assessment to repay financing of an energy improvement project located on such property. The contract between a property owner and the Kenai Peninsula Borough will authorize Kenai Peninsula Borough to service the debt by PACER assessment for the benefit of the capital provider and enforce the PACER assessment lien as provided in AS 29.45.320 - 29.45.470 for enforcement of property tax liens. In the case of third-party capital financing of energy improvement project(s), an agreement will be entered into by the Kenai Peninsula Borough and the third-party capital provider.

A person or entity that acquires property subject to an assessment under the PACER Program will assume the obligation to pay such PACER assessment.

**SECTION 8.** Subject to law, the Kenai Peninsula Borough shall collect, and enforce PACER assessments in the same manner as other property tax liens.

**SECTION 9.** The report on the proposed PACER Program, as required by AS 29.55.110, will be available for public inspection on the Internet website of [www.kpb.us](http://www.kpb.us) and in the Borough's Finance Department at 144 N. Binkley Street, Soldotna, AK 99669.

**SECTION 10.** The local official administering the PACER Program is the Borough Assessor, or designee, and the appropriate assigned assessor, who will collect the proposed PACE assessment with property taxes imposed on the assessed property.

**SECTION 11.** The Kenai Peninsula Borough will hold a public hearing on the proposed PACER Program and report.

**SECTION 12.** That this resolution takes effect immediately upon adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 3RD DAY OF JANUARY 2023.**

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Brent Johnson, Assembly President

ATTEST:

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Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

# Kenai Peninsula Borough Assembly

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## MEMORANDUM

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

**FROM:** Cindy Ecklund, Assembly Member (NM) for CE

**DATE:** December 21, 2022

**SUBJECT:** Resolution 2023-005, Resolution of Intent by The Kenai Peninsula Borough Assembly Establishing that Financing of Energy and Resilience Improvement Projects through Assessments Serves a Valid Public Purpose and Related Matters (PACER Program) (Ecklund)

---

The Alaska State Legislature enacted the Municipal Property Assessed Clean Energy and Resilience Act, Alaska Statutes 29.55, as amended, restated, supplemented or otherwise modified from time to time ("PACER Act"), authorizing local governments to establish an energy and resilience improvement assessment program.

The PACER Act allows local governments to finance the installation or modification of permanent improvements, fixed to new construction or existing privately owned commercial or industrial property, to achieve reduced energy consumption or demand in areas designated by local governments.

Installation or modification by property owners of energy and resilience improvement upgrades to commercial or industrial property in the Kenai Peninsula Borough will serve a public purpose by reducing energy costs, stimulating the economy, improving property valuation, reducing greenhouse gas emissions and creating jobs.

The Resolution of Intent includes a finding by Kenai Peninsula Borough Assembly that it is convenient and advantageous to establish a program under the PACER Act and designate the geographic area on an areawide basis within the Kenai Peninsula Borough's jurisdiction as an area within which Kenai Peninsula Borough and the record owners of qualified real property may participate under a program established by the PACER Act and enter into financing arrangements in connection therewith.

Your consideration is appreciated.

Introduced by: Johnson  
Date: 01/03/23  
Action:  
Vote:

**KENAI PENINSULA BOROUGH  
RESOLUTION 2023-001**

**A RESOLUTION CONFIRMING AN APPOINTMENT TO A NON-BOROUGH BOARD**

**WHEREAS,** it is the duty of the Assembly President to make certain appointments and/or nominations to various borough and non-borough boards, commissions and committees; and

**WHEREAS,** the Borough Assembly's adopted Rules of Procedure (Resolution 96-020) require Assembly confirmation of all appointments to non-borough committees and boards by resolution;

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

**SECTION 1.** That the appointment listed below is confirmed as follows:

**Cook Inlet Regional Citizens Advisory Council**  
Grace Merkes, Director, term expires April 2026

**SECTION 2.** That this resolution takes effect immediately upon its adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 3RD DAY OF JANUARY, 2023.**

---

Brent Johnson, Assembly President

ATTEST:

---

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

Introduced by:	Mayor
Date:	01/03/23
Hearing:	01/17/23
Action:	
Vote:	

**KENAI PENINSULA BOROUGH  
ORDINANCE 2022-19-39**

**AN ORDINANCE DEOBLIGATING AND APPROPRIATING SOLID WASTE  
CAPITAL PROJECT FUNDS PREVIOUSLY APPROPRIATED FOR THE  
CONSTRUCTION OF THE FUNNY RIVER TRANSFER SITE TO OVERHEAD DOOR  
REPLACEMENT AT CENTRAL PENINSULA LANDFILL**

**WHEREAS,** during the FY2020 annual budget process, the Assembly appropriated funds of \$670,525 to the Borough's Solid Waste Department for completion of the Funny River Transfer Site Project; and

**WHEREAS,** the expansion of the Funny River site was completed leaving \$48,777.23 in available funds; and

**WHEREAS,** during the FY2023 annual budget process, the Assembly appropriated \$40,000 for replacement of overhead doors at the Central Peninsula Landfill ("CPL"); and

**WHEREAS,** two nonfunctioning overhead doors at CPL need to be replaced, however, after project bids were received, the budget is only sufficient to replace one door; and

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

**SECTION 1.** That an amount up to \$48,777.23 is deobligated from the Solid Waste Funny River Transfer Site Capital Project and appropriated to account 411.32122.23494.49999 to support the CPL Overhead Door Replacement Project.

**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.** 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:

# Kenai Peninsula Borough

## Solid Waste Department

### MEMORANDUM

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

**THRU:** Mike Navarre, Mayor *MN*

**FROM:** Lee Frey, Solid Waste Director *LF*  
Brandi Harbaugh, Finance Director *BH*  
John Hedges, Purchasing & Contracting Director *JH*

**DATE:** December 21, 2022

**RE:** Ordinance 2022-19-39, Deobligating and Appropriating Solid Waste Capital Project Funds Previously Appropriated for the Construction of the Funny River Transfer Site to Overhead Door Replacement at Central Peninsula Landfill (Mayor)

During the FY2020 annual budget process, the Assembly appropriated funds of \$670,525 for the expansion of the Funny River Transfer Site. The expansion was completed leaving \$48,777.23 in available funds.

During the FY2023 annual budget process, the Assembly appropriated \$40,000 for replacement of overhead doors at the Central Peninsula Landfill (CPL). We had anticipated this covering the cost to replace two overhead doors. After the project was bid, the funds are currently only sufficient to replace one door. Re-appropriation of these funds to the overhead door replacement project will allow us to complete replacement of the two currently non-functioning doors at CPL that were bid and use remaining funds to replace other doors.

This ordinance deobligates and appropriates up to \$48,777.23 from a previously appropriated project in the Solid Waste Capital Project to supplement the FY2023 CPL Overhead Door Replacement project.

Your consideration is appreciated.

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No.	<u>411.32570.20FUN.49999</u>
Amount:	Up to <u>\$48,777.23</u>
By: <i>CJ</i>	Date: <u>12/20/2022</u>

Introduced by: Mayor  
Date: 01/03/23  
Hearing: 02/07/23  
Action:  
Vote:

**KENAI PENINSULA BOROUGH  
ORDINANCE 2023-01**

**AN ORDINANCE AMENDING KPB 2.04.060 TO INCREASE THE  
MAYOR’S SALARY TO \$130,000 AND TO PROVIDE FOR AN INFLATION  
ADJUSTMENT EVERY THREE YEARS**

- WHEREAS,** the Kenai Peninsula Borough (“Borough”) Mayor’s salary was set at \$79,000 in 1990 and increased to \$99,000 in 2011; and
- WHEREAS,** Ordinance 2011-11 noted that over the 21 years between 1990 and 2011, the salary if adjusted for inflation would have been \$135,000; and
- WHEREAS,** between 2011 and 2022, the salary if adjusted for inflation would have been \$170,000; and
- WHEREAS,** KPB 2.04.060(B) provides that the Borough Mayor’s salary may only be adjusted through the budgeting process preceding the mayoral election; and
- WHEREAS,** as in 2011, the purpose served by increasing the Borough Mayor’s salary is to encourage additional experienced managers to consider public service;

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

**SECTION 1.** That KPB 2.04.060 is hereby amended as follows:

**2.04.060. Salary.**

- A. Compensation for the borough mayor shall be [\$99,000] \$130,000 per year.
- B. The mayor's salary may be adjusted at the end of each term of office through the budgeting process preceding the mayoral election. Notwithstanding, at a minimum, the salary will be adjusted every three years in an amount equivalent to the average of the three prior annual percentage changes in the Consumer Price Index for Urban Alaska (CPI). If the applicable CPI is flat or negative, then the salary will not be adjusted.

**SECTION 2.** That this ordinance will take effect at the beginning of the next full term of office for the Borough Mayor.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS \* DAY  
OF \* 2023.**

---

Brent Johnson, Assembly President

ATTEST:

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Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

# Kenai Peninsula Borough

## Office of Borough Mayor

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### MEMORANDUM

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

**FROM:** Mike Navarre, Mayor *MN*

**DATE:** December 21, 2022

**SUBJECT:** Ordinance 2023-01, Amending KPB 2.04.060 to Increase the Mayor's Salary to \$130,000 and to Provide for an Inflation Adjustment Every Three Years (Mayor)

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The Ordinance will increase the Borough Mayor's salary to \$130,000 per year and includes a process for adjusting the mayor's salary on a regular basis to recognize inflationary impacts.

The Borough Mayor's role as the Chief Administrator includes responsibility for 11 departments and 13 diverse service areas, with all of the challenges associated. It is first and foremost a full-time management position for an area approximately the size of West Virginia, with a population of a little over 58,000. The Kenai Peninsula Borough includes a variety of large and small communities, organized and unorganized, with a diversity of concerns, problems and issues that can change or manifest on a daily basis. The role is equivalent to that of a professional city or borough manager, the only difference is it is an elected position.

The political realities of adjusting the pay of elected officials are always difficult. I believe a consistent process is needed that both recognizes the job responsibilities and compensates fairly, including consideration of inflationary adjustments.

If approved, this salary increase takes effect at the beginning of the next full term of office for the Borough Mayor, approximately October 2023.

Your consideration is appreciated.

# Kenai Peninsula Borough Assembly

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## MEMORANDUM

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

**THRU:** Michele Turner, Acting Borough Clerk *MT*

**FROM:** Jenny Ratky, Borough Clerk Administrative Asst.

**DATE:** Tuesday, January 3, 2023

**RE:** Transfer of Ownership and Location – Justin Cole DBA: Cole's Market – License 1350

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Kenai Peninsula Borough Code § 7.10.010 provides for a mandatory Assembly review of applications requesting approval of relocation of the licensed premises. Accordingly, the attached application for Justin Cole DBA: Cole's Market located in the Kenai Peninsula Borough, Alaska, is being submitted to you for review and action.

The Borough Finance Department has reviewed the application and has no objection to the transfer of ownership based on unpaid taxes. The Planning Department has reviewed the application for proximity to churches and/or schools and has no objection to the relocation of the license.

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**RECOMMENDATION:** That the Assembly authorizes a letter of non-objection to the relocation and transfer of ownership of the license as requested by Justin Cole DBA: Cole's Market.

cc: Justin Cole



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community,  
and Economic Development

ALCOHOL & MARIJUANA CONTROL OFFICE  
550 West 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501  
Main: 907.269.0350

November 17, 2022

Kenai Peninsula Borough

VIA Email: : [mjenkins@kpb.us](mailto:mjenkins@kpb.us); [jvanhooose@kpb.us](mailto:jvanhooose@kpb.us); [jratky@kpb.us](mailto:jratky@kpb.us); [cjackinsky@kpb.us](mailto:cjackinsky@kpb.us);  
[maldridge@kpb.us](mailto:maldridge@kpb.us); [ncarver@kpb.us](mailto:ncarver@kpb.us); [slopez@kpb.us](mailto:slopez@kpb.us); [jblankenship@kpb.us](mailto:jblankenship@kpb.us); [assemblyclerk@kpb.us](mailto:assemblyclerk@kpb.us);  
[bcarter@kpb.us](mailto:bcarter@kpb.us)

License Type:	Package Store	License Number:	1350
Licensee:	Cole's Market LLC		
Doing Business As:	Cole's Market		
Premises Address	60744 East End Road, Homer		

☐ New Application

☒ Transfer of Ownership Application

☒ Transfer of Location Application

☐ Transfer of Controlling Interest Application

We have received a completed application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under AS 04.11.480.

A local governing body may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of receipt of this notice, and by allowing the applicant a reasonable opportunity to defend the application before a meeting of the local governing body, as required by 3 AAC 304.145(d). If a protest is filed, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable. To protest the application referenced above, please submit your protest within 60 days and show proof of service upon the applicant.

AS 04.11.491 – AS 04.11.509 provide that the board will deny a license application if the board finds that the license is prohibited under as a result of an election conducted under AS 04.11.507.

AS 04.11.420 provides that the board will not issue a license when a local governing body protests an application on the grounds that the applicant's proposed licensed premises are located in a place within the local government where a local zoning ordinance prohibits the alcohol establishment, unless the local government has approved a variance from the local ordinance.

Sincerely,

Joan Wilson, Director

[amco.localgovernmentonly@alaska.gov](mailto:amco.localgovernmentonly@alaska.gov)



# Alaska Alcoholic Beverage Control Board

## Form AB-01: Transfer License Application

Alcohol and Marijuana Control Office  
550 W 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501  
[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)  
<https://www.commerce.alaska.gov/web/amco>  
Phone: 907.269.0350

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### Why is this form needed?

This transfer license application form is required for all individuals or entities seeking to apply for the transfer of ownership and/or location of an existing liquor license. Applicants should review **Title 04 of Alaska Statutes** and **Chapter 304 of the Alaska Administrative Code**. All fields of this form must be completed, per AS 04.11.260, AS 04.11.280, AS 04.11.290, and 3 AAC 304.105.

This form must be completed and submitted to AMCO's Anchorage office, along with all other required forms and documents, before any license application will be considered complete.

### Section 1 – Transferor Information

Enter information for the **current** licensee and licensed establishment.

Licensee:	Inlet View Restaurant & Bar, Inc.	License #:	1350
License Type:	Package Store	Statutory Reference:	04.11.150
Doing Business As:	Inlet View Restaurant & Bar		
Premises Address:	15630 Sterling Hwy		
City:	Ninilchik	State:	AK
		ZIP:	99639
Local Governing Body:	Kenai Peninsula Borough		

### Transfer Type:

- ☒ Regular transfer  
☐ Transfer with security interest  
☐ Involuntary retransfer

AMCO  
OCT 17 2022

OFFICE USE ONLY			
Complete Date:	11-17-2022	Transaction #:	100475100
Board Meeting Date:	12-12-2022	License Years:	22/23
Issue Date:		Examiner:	KRS

AMCO  
OCT 17 2022





Alaska Alcoholic Beverage Control Board

**Form AB-01: Transfer License Application**

**Section 2 – Transferee Information**

Enter information for the **new** applicant and/or location seeking to be licensed.

Licensee:	Cole's Market LLC				
Doing Business As:	Cole's Market				
Premises Address:	60744 E End Rd				
City:	Homer	State:	AK	ZIP:	99603
Community Council:	<del>Kenai Peninsula Borough</del> none				

Mailing Address:	60744 E End Rd				
City:	Homer	State:	AK	ZIP:	99603

Designated Licensee:	Justin Cole				
Contact Phone:	907-299-6177	Business Phone:	907-235-3998		
Contact Email:	ratone1975@yahoo.com				

Seasonal License? Yes ☐ No ☒ If "Yes", write your six-month operating period: \_\_\_\_\_

**Section 3 – Premises Information**

Premises to be licensed is:

☒ an existing facility ☐ a new building ☐ a proposed building

The next two questions must be completed by beverage dispensary (including tourism) and package store applicants only:

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the outer boundaries of the nearest school grounds? Include the unit of measurement in your answer.

2 Miles

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the public entrance of the nearest church building? Include the unit of measurement in your answer.

1/2 Mile



Alcohol and Marijuana Control Office

550 W 7<sup>th</sup> Avenue, Suite 1600

Anchorage, AK 99501

[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)<https://www.commerce.alaska.gov/web/amco>

Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

## Form AB-01: Transfer License Application

### Section 4 – Sole Proprietor Ownership Information

This section must be completed by any sole proprietor who is applying for a license. Entities should skip to Section 5.

If more space is needed, please attach a separate sheet with the required information.

The following information must be completed for each licensee and each affiliate (spouse).

This individual is an: ☐ applicant ☐ affiliate

Name:					
Address:					
City:		State:		ZIP:	

This individual is an: ☐ applicant ☐ affiliate

Name:					
Address:					
City:		State:		ZIP:	

### Section 5 – Entity Ownership Information

This section must be completed by any entity, including a corporation, limited liability company (LLC), partnership, or limited partnership, that is applying for a license. Sole proprietors should skip to Section 6.

If more space is needed, please attach a separate sheet with the required information.

- If the applicant is a corporation, the following information must be completed for each *stockholder who owns 10% or more* of the stock in the corporation, and for each *president, vice-president, secretary, and managing officer*.
- If the applicant is a limited liability organization, the following information must be completed for each *member with an ownership interest of 10% or more*, and for each *manager*.
- If the applicant is a partnership, including a limited partnership, the following information must be completed for each *partner with an interest of 10% or more*, and for each *general partner*.

Entity Official:	Justin Cole as Trustee of Justin Cole Living Trust				
Title(s):	Manager/Member	Phone:	907-299-6177	% Owned:	100
Address:	60744 E End Rd				
City:	Homer	State:	AK	ZIP:	99603





Alcohol and Marijuana Control Office  
 550 W 7<sup>th</sup> Avenue, Suite 1600  
 Anchorage, AK 99501  
[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)  
<https://www.commerce.alaska.gov/web/amco>  
 Phone: 907.269.0350

# Alaska Alcoholic Beverage Control Board

## Form AB-01: Transfer License Application

Entity Official:	Justin Cole				
Title(s):	Affiliate	Phone:	907-299-6177	% Owned:	0
Address:	60744 E End Rd				
City:	Homer	State:	AK	ZIP:	99603

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

This subsection must be completed by any applicant that is a corporation or LLC. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations (DOC) and have a registered agent who is an individual resident of the state of Alaska.

DOC Entity #:	10094963	AK Formed Date:	11/20/2018	Home State:	AK
Registered Agent:	Justin Cole	Agent's Phone:	907-299-6177		
Agent's Mailing Address:	3125 E End Rd				
City:	Homer	State:	AK	ZIP:	99603

Residency of Agent:

☒ Yes ☐ No

Is your corporation or LLC's registered agent an individual resident of the state of Alaska?

☒ ☐



## Alaska Alcoholic Beverage Control Board

**Form AB-01: Transfer License Application**

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

This subsection must be completed by any applicant that is a corporation or LLC. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations (DOC) and have a registered agent who is an individual resident of the state of Alaska.

DOC Entity #:	10094963	AK Formed Date:	11/20/2018	Home State:	AK
Registered Agent:	Justin Cole	Agent's Phone:	907-299-6177		
Agent's Mailing Address:	3125 E End Rd				
City:	Homer	State:	AK	ZIP:	99603

Residency of Agent:



No

Is your corporation or LLC's registered agent an individual resident of the state of Alaska?





Alcohol and Marijuana Control Office  
 550 W 7<sup>th</sup> Avenue, Suite 1600  
 Anchorage, AK 99501  
[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)  
<https://www.commerce.alaska.gov/web/amco>  
 Phone: 907.269.0350

## Alaska Alcoholic Beverage Control Board

# Form AB-01: Transfer License Application

### Section 6 – Other Licenses

Ownership and financial interest in other alcoholic beverage businesses:

Yes No

Does any representative or owner named as a transferee in this application have any direct or indirect financial interest in any other alcoholic beverage business that does business in or is licensed in Alaska?



If "Yes", disclose which individual(s) has the financial interest, what the type of business is, and if licensed in Alaska, which license number(s) and license type(s):

Justin Cole - Beverage Dispensary License #2300

dva  
Down East Saloon

### Section 7 – Authorization

Communication with AMCO staff:

Yes No

Does any person other than a licensee named in this application have authority to discuss this license with AMCO staff?



If "Yes", disclose the name of the individual and the reason for this authorization:





Alcohol and Marijuana Control Office

550 W 7<sup>th</sup> Avenue, Suite 1600

Anchorage, AK 99501

alcohol.licensing@alaska.gov

<https://www.commerce.alaska.gov/web/amco>

Phone: 907.269.0350

## Alaska Alcoholic Beverage Control Board

## Form AB-01: Transfer License Application

## Section 8 – Transferor Certifications

Additional copies of this page may be attached, as needed, for the controlling interest of the current licensee to be represented.

I declare under penalty of perjury that the undersigned represents a **controlling interest** of the current licensee. I additionally certify that I, as the current licensee (either the sole proprietor or the controlling interest of the currently licensed entity) have examined this application, approve of the transfer of this license, and find the information on this application to be true, correct, and complete.

Debbie V. Cary  
Signature of transferor

Debbie V. Cary  
Printed name of transferor

Subscribed and sworn to before me this 5th day of September, 2022.

Renée C. Orians  
Signature of Notary Public

RENEE ORIAN  
Notary Public  
State of Alaska  
My Commission Expires July 8, 2025

Notary Public in and for the State of ALASKA.

My commission expires: July 8, 2025

Robert J. Ferguson  
Signature of transferor

Robert J. Ferguson  
Printed name of transferor

Subscribed and sworn to before me this 5th day of September, 2022.

Renée C. Orians  
Signature of Notary Public

RENEE ORIAN  
Notary Public  
State of Alaska  
My Commission Expires July 8, 2025

Notary Public in and for the State of Alaska.

My commission expires: July 8, 2025

AMCO  
OCT 17 2022



## Alaska Alcoholic Beverage Control Board

## Form AB-01: Transfer License Application

## Section 9 – Transferee Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that all proposed licensees (as defined in AS 04.11.260) and affiliates have been listed on this application.

I certify that all proposed licensees have been listed with the Division of Corporations.

I certify that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.

I certify that all licensees, agents, and employees who sell or serve alcoholic beverages or check the identification of a patron will complete an approved alcohol server education course, if required by AS 04.21.025, and, while selling or serving alcoholic beverages, will carry or have available to show a current course card or a photocopy of the card certifying completion of approved alcohol server education course, if required by 3 AAC 304.465.

I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.

I hereby certify that I am the person herein named and subscribing to this application and that I have read the complete application, and I know the full content thereof. I declare that all of the information contained herein, and evidence or other documents submitted are true and correct. I understand that any falsification or misrepresentation of any item or response in this application, or any attachment, or documents to support this application, is sufficient grounds for denying or revoking a license/permit. I further understand that it is a Class A misdemeanor under Alaska Statute 11.56.210 to falsify an application and commit the crime of unsworn falsification.

**RENEE ORIAN**  
Notary Public  
State of Alaska  
My Commission Expires July 8, 2025

Signature of transferee

Justin Cole

Printed name

Signature of Notary Public

Notary Public in and for the State of AlaskaMy commission expires: July 8, 2025Subscribed and sworn to before me this 02 day of September, 2022.

AMCO

OCT 17 2022



## Alaska Alcoholic Beverage Control Board Form AB-02: Premises Diagram

### Why is this form needed?

A detailed diagram of the proposed licensed premises is required for all liquor license applications, per AS 04.11.260 and 3 AAC 304.185. Your diagram must include dimensions and must show all entrances and boundaries of the premises, walls, bars, fixtures, and areas of storage, service, consumption, and manufacturing. If your proposed premises is located within a building or building complex that contains multiple businesses and/or tenants, please provide an additional page that clearly shows the location of your proposed premises within the building or building complex, along with the addresses and/or suite numbers of the other businesses and/or tenants within the building or building complex.

The second page of this form may not be required. Blueprints, CAD drawings, or other clearly drawn and marked diagrams may be submitted in lieu of the second page of this form. The first page must still be completed, attached to, and submitted with any supplemental diagrams. An AMCO employee may require you to complete the second page of this form if additional documentation for your premises diagram is needed.

This form must be completed and submitted to AMCO's Anchorage office before any license application will be considered complete.

Yes No

I have attached blueprints, CAD drawings, or other supporting documents in addition to, or in lieu of, the second page of this form.

☐ ☒

### Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Cole's Market LLC	License Number:	1350		
License Type:	Package Store				
Doing Business As:	Cole's Market				
Premises Address:	60744 E End Rd				
City:	Homer	State:	AK	ZIP:	99603






# Kenai Peninsula Borough

## Planning Department

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### MEMORANDUM

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

**FROM:** Robert Ruffner, Planning Director 

**DATE:** December 19, 2022

**RE:** Right-Of-Way Vacation: Vacating a 2-foot width of a 15-foot-wide alley

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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 December 12, 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 (12-Yes, 0-No , 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.

December 12, 2022 Draft PC Minutes  
December 12, 2022 Meeting Packet Materials  
Petition Form

**VACATE A 2 FOOT WIDTH OF A 15-FOOT-WIDE ALLEY**

<b>KPB File No.</b>	2022-172V
<b>Planning Commission Meeting:</b>	December 12, 2022
<b>Applicant / Owner:</b>	Ancient Basements, LLC of Kasilof, Alaska
<b>Surveyor:</b>	Jerry Johnson / Johnson Surveying
<b>General Location:</b>	Mission Avenue, Bayview Street, Ninilchik
<b>Legal Description:</b>	Alley adjacent to Lots 10 and 11, Block 4, Ninilchik Townsite, USS 3036, Plat HM 65-55

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

Joan Jackinsky; P.O. Box 1025, Kasilof, AK 99610: Ms. Jackinsky is the petitioner and made herself 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 Staggs 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 normally they would be reluctant to approve a vacation of a right-of-way that leads to a waterway. The petitioners would have to present a compelling case for them to do so. In this case, he believes the petitioners have presented a compelling case in support of their request. He also noted they are not vacating the entire alley, there is still a 13-foot section of the alley remaining that can be used to access the waterway. He then stated that he would be supporting this request.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 11	Brantley, Fikes, Gillham, Hooper, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
Absent - 1	Horton

**ITEM E3 – ORDINANCE 2022-43  
AUTHORIZING A SUBSURFACE OIL & GAS LEASE TO HILCORP ALASKA, LLC,  
IN THE NINILCHIK UNIT.**

Staff report given by Land Management Officer Marcus Mueller.

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 Slaughter moved, seconded by Commissioner Staggs to forward to the Assembly a recommendation to adopt Ordinance 2022-43 authorizing a subsurface oil & gas lease to Hilcorp Alaska, LLC, in the Ninilchik Unit.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 11	Brantley, Fikes, Gillham, Hooper, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
Absent - 1	Horton

**AGENDA ITEM F. PLAT COMMITTEE REPORT**

Commissioner Gillham reported the plat committee reviewed & granted preliminary approval to eight plats



## **E. NEW BUSINESS**

2. Right-Of-Way Vacation; KPB File 2022-172V  
Johnson Surveying / Ancient Basements, LLC  
Request: Vacate a 2' X 222.78' portion of an alley located  
between Mission Ave. & Bayview Street as dedicated on USS  
3036 HM 65-55  
Location: Ninilchik Area



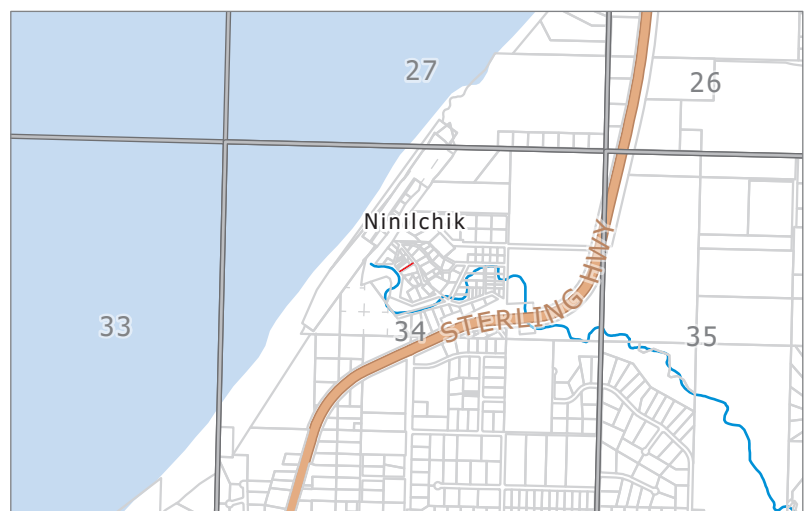
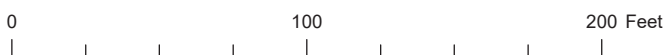
# Kenai Peninsula Borough Planning Department

## Vicinity Map



KPB File 2022-172V  
T 01S R 14W SEC 34  
Ninilchik

11/21/2022








Ninilchik Townsite Preliminary  
Ancient Basements Replat Plat

A replat of Lots 10, 11, & 12 Block 4 Ninilchik TWS, USS 3036, HRD 65-55, including a partial vacation of an alley. Located in the NW1/4 Section 34, T1S R14W, SM, Alaska. Homer Recording District Kenai Peninsula Borough

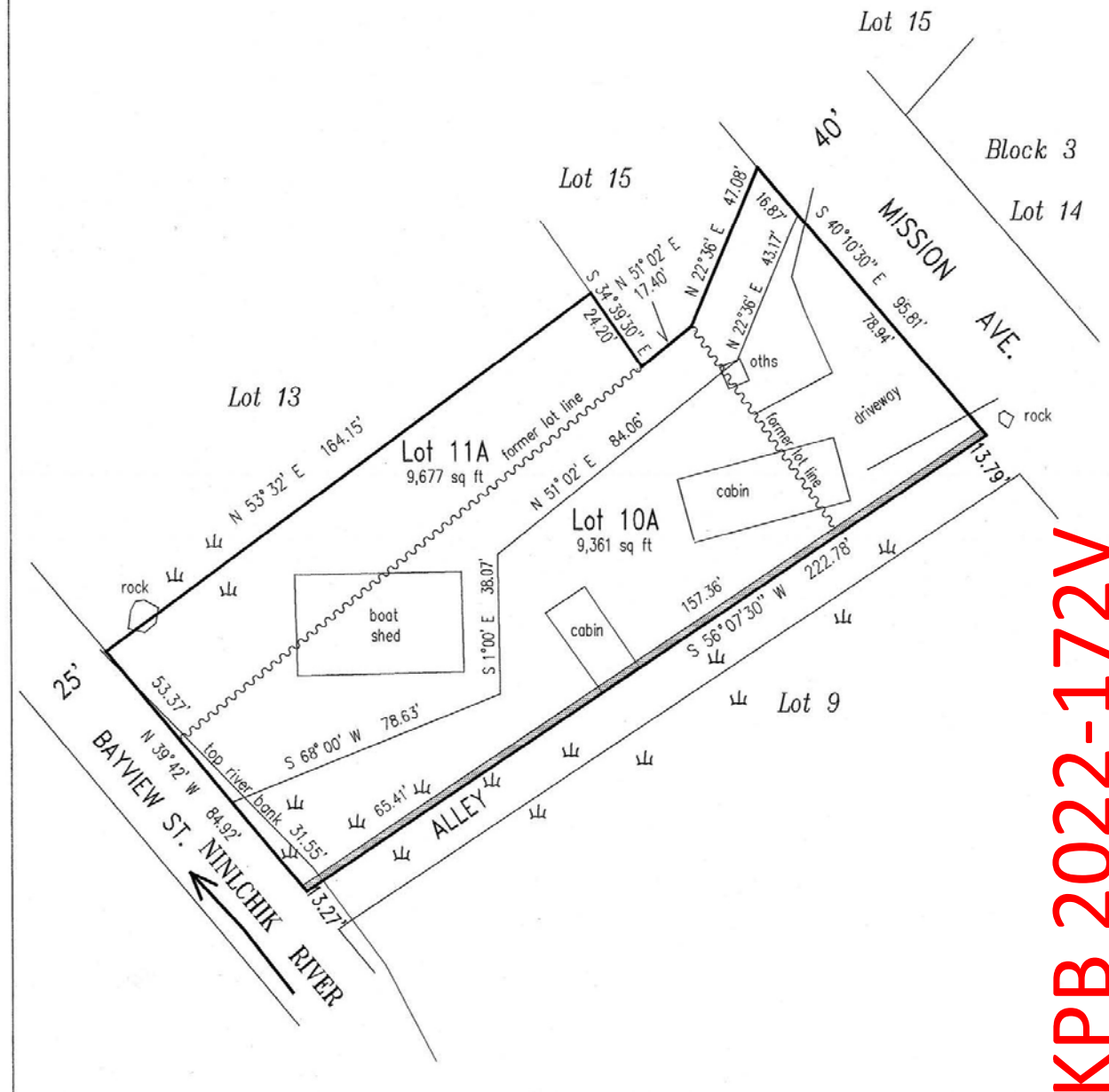
Prepared for  
Ancient Basements, LLC  
P.O. Box 1025  
Kasilof, AK 99610

Prepared by \_\_\_\_\_  
Johnson Surveying  
P.O. Box 27  
Clam Gulch, Ak 99568

SCALE 1" = 30' AREA = 19,038 sq ft  
15 November, 2022

 - indicates 2' wide ROW area proposed for vacation.

山 - indicates swamp





AGENDA ITEM E. NEW BUSINESS

**ITEM 2 - RIGHT OF WAY VACATION  
VACATE A 2 FOOT WIDTH OF A 15 FOOT WIDE ALLEY**

<b>KPB File No.</b>	2022-172V
<b>Planning Commission Meeting:</b>	December 12, 2022
<b>Applicant / Owner:</b>	Ancient Basements, LLC of Kasilof, Alaska
<b>Surveyor:</b>	Jerry Johnson / Johnson Surveying
<b>General Location:</b>	Mission Avenue, Bayview Street, Ninilchik
<b>Legal Description:</b>	Alley adjacent to Lots 10 and 11, Block 4, Ninilchik Townsite, USS 3036, Plat HM 65-55

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**STAFF REPORT**

**Specific Request / Purpose as stated in the petition:** Currently there are 3 buildings located on these lots. The existing lot line run through 2 of these buildings. We would like to replat the lots so that the lot lines do not bisect the buildings.

Two of these buildings were homes of original settlers of Ninilchik Village. They were built in the mid-to-late 1800's and more than a century later were moved to their present location in order to preserve them. Ninilchik Village records show that Leontii Ostrogin (aka Peg-Leg John) moved to Ninilchik in 1851. He was known as the village carpenter and helped build many homes including the smaller of the two houses. Unfortunately the roof line of his cabin extends into the southeast alley by about 18 inches. This cabin will not withstand another move, and is currently sitting on a concrete pad with new foundational logs to stabilize it and keep it off the ground.

We are asking the Borough to grant a 24 inch vacation of the alleyway so this historical building can be preserved.

Thank you for your consideration of this vacation.

**Notification:** The public hearing notice was published in the December 7, 2022 issue of the Homer News 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 Ninilchik

Post Office of Ninilchik

Twenty-three certified mailings were sent to owners of property within 300 feet of the proposed vacation. Fifteen receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to thirteen owners within 600 feet of the proposed vacation.

Eighteen 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  
Ninilchik Emergency Services

Ninilchik Traditional Council  
Alaska Communication Systems (ACS)  
ENSTAR Natural Gas  
General Communications Inc, (GCI)  
Homer Electric Association (HEA)



**Legal Access (existing and proposed):** Currently there is an approximate 15 foot wide alley that connects Mission Avenue to Bayview Street. Mission Avenue was dedicated as a 40 foot wide right-of-way and is constructed and maintained by the State of Alaska. Bayview Street was dedicated as 25 feet wide and abuts the Ninilchik River. There is no constructed portion of Bayview Street. The new lot configuration proposed will allow for the new lots to have access from Mission Avenue. The proposal is to only vacate the area needed to allow for the historic building and an approximate 13 foot wide alley will remain for access to the adjacent lots.

The alley was dedicated by United States Survey No 3036, Plat HM 65-55. That plat laid out the design for the Ninilchik Townsite. The alley width is shown as 15.88 feet at Mission Avenue that narrows to 15.36 feet at Bayview Street. The proposal will vacate 2 feet of the alley and leave a portion that is 13.79 feet that narrows to 13.27 feet.

The alley provides access to Bayview Street from Mission Avenue. Bayview Street is a dedication that abuts/contains the Ninilchik River. Additional access to Bayview Street/Ninilchik River is located further north, also named Bayview Street and having a 50-foot access. Further south Lunker Avenue is dedicated as 50 foot wide and provides additional access to Bayview Street/Ninilchik River.

The Bayview Street to the north, Mission Avenue, the alley, and Bayview Street on the West define the block. KPB Code states that blocks shall not be less than 330 feet. The block does not comply and the partial vacation does not improve the block.

KPB Roads Dept. comments	Out of Jurisdiction: No  Roads Director: Uhlin, Dil Comments: Does not affect road maintenance
SOA DOT comments	

**Site Investigation:** The alley as well as the adjacent rights-of-way are all considered wetlands with a designation of Riverine. The Ninilchik River, an anadromous stream, abuts and runs along a portion of the property and the ally ends at the river.

The terrain within the alley is relatively flat with slight slopes towards the Ninilchik River. The property is within a floodplain and proper notes will be required on the plat that finalizes the vacation.

KPB River Center review	<p>A. Floodplain Reviewer: Carver, Nancy Floodplain Status: IS in flood hazard area Comments: Flood Zone: AE,Floodway,X (shaded) Map Panel: 02122C-1620E In Floodway: False Floodway Panel:</p> <p>B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: IS totally or partially within HPD Comments: i:0#.w kpb\maldrige</p> <p>C. State Parks Reviewer: Russell, Pam Comments: No Comments</p>
Alaska State Fish and Game	Public access to public lands and waters will not be affected by the proposed ROW vacation.

**Staff Analysis:** U.S. Survey 3036 subdivided the Ninilchik Townsite. The area was surveyed in 1950, signed by U.S. Department of the Interior in 1951, and recorded in 1965. The Townsite was created with small lots and narrow dedications.

The owners of the property are wishing to reconfigure three lots into two lots. Based on the proposed design some exceptions will be required but the design does improve the lots square footage and access to constructed rights-of-way.

The justification states the intent is preserve historical structures that may not be able to endure another relocation due to their state. The justification also states the request is to accommodate a roof line that extends into the right-of-way. Per KPB Code, 14.40.390, encroachments is a structure or object placed in, on, under, or over a right-of-way. The owners wish to vacate two feet to accommodate the roof line and allow an approximate 13 foot wide alley to remain for access to the Ninilchik River.

The Kenai Peninsula Borough Comprehensive Plan 2019 contains as Goal 3, "Preserve and improve quality of life in the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services." One of the focus areas under that goal is Historic Preservation with objectives that include efforts to protect cultural history and resources in borough communities and also to maintain the character of historic towns and districts. Reviewing the proposal with the goals and objections within the Comprehensive Plan this petition fits with preserving the structures but also not impacting the historic character of the Ninilchik Townsite.

#### **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 alley is not constructed but using KPB GIS Imagery a foot trail may be present.
2. A road is impossible or impractical to construct, and alternative access has been provided;  
**Staff comments:** The road is not compliant in width for borough maintenance, the road provides access to the Ninilchik River and other access points exist within the Townsite. A portion will remain to continue providing access to the river.
3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;  
**Staff comments:** The area is heavily developed with lots smaller than current code allows and some limited access in areas.
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:** The alley does provide access to the Ninilchik River. The alley will still provide such access but at a reduced width. Additional access is found approximately 300 feet to the northwest and approximately 600 feet to the southeast.
5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;  
**Staff comments:** The proposed redesign will improve access as one of the lots has dedicated access but the location of the Ninilchik River only provides water access.
6. Other public access, other than general road use, exist or are feasible for the right-of-way;

**Staff comments:** The alley can continue to provide access to the lots abutting as well as public access to Ninilchik River but due to size even prior to partial vacation would not be able to be part of the borough road maintenance program.

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:** With proper permitting the remaining portion of the alley may be used for utility purposes. Any requested easements should be granted or an agreement made with the utility providers.

8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.

**Staff comments:** This is a narrow alley that will continue to provide access. The vacation is to accommodate the roof line of a historic building that the owners are trying to limit major impacts in order to keep the structure intact.

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 January 3, 2023 meeting.

If approved, Ninilchik Townsite Ancient Basements Replat will finalize the proposed right of way vacations. The application for the plat has not been received and will be scheduled for review in accordance with KPB Code once a complete application is received.

**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: a portion of one structure is in the proposed ROW to be vacated.
Addressing	Reviewer: Haws, Derek Affected Addresses: 15332 BAYVIEW ST  Existing Street Names are Correct: Yes  List of Correct Street Names: BAYVIEW ST MISSION AVE  Existing Street Name Corrections Needed:  All New Street Names are Approved: No  List of Approved Street Names:

	List of Street Names Denied:  Comments: 15332 BAYVIEW ST will be deleted and replaced with a MISSION AVE address.
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*
  - o *Objective A - Encourage coordination of 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*
  - o *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*
  - o *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.*

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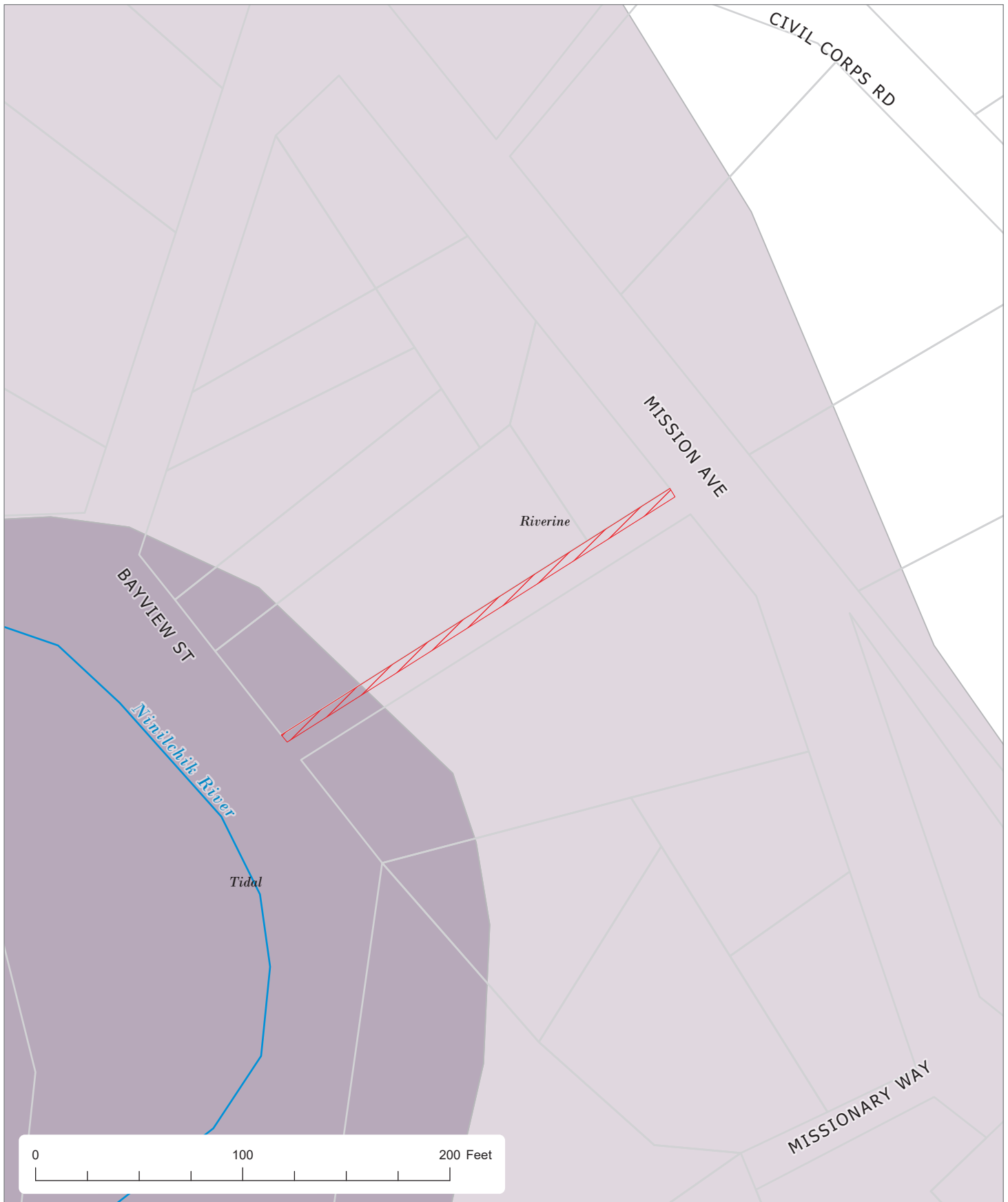
**END OF STAFF REPORT**







**Wetlands**









TRACT A and TRACT B  
TOWNSITE OF NINILCHIK, ALASKA

LATITUDE 60° 02' 52" N., LONGITUDE 151° 30' 43" W.,  
AT CORNER No. 1, TRACT A

SCALE IN FEET

SURVEYED BY ELLIOTT PEARSON, AUGUST 26 TO SEPTEMBER 14, 1980

RECORDED - FILED  
Homer REC. DIST.  
DATE 1-26-1965  
TIME 1:40 P.  
Requested by B. J. M.  
Address North



UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Washington, D. C., Aug. 7, 1951

This plot is strictly conformable to the approved field notes, and the survey, having been correctly executed in accordance with the requirements of law and regulations of this bureau, is hereby accepted.

For the Director:

William F. Richards

Chief Branch of Surveys

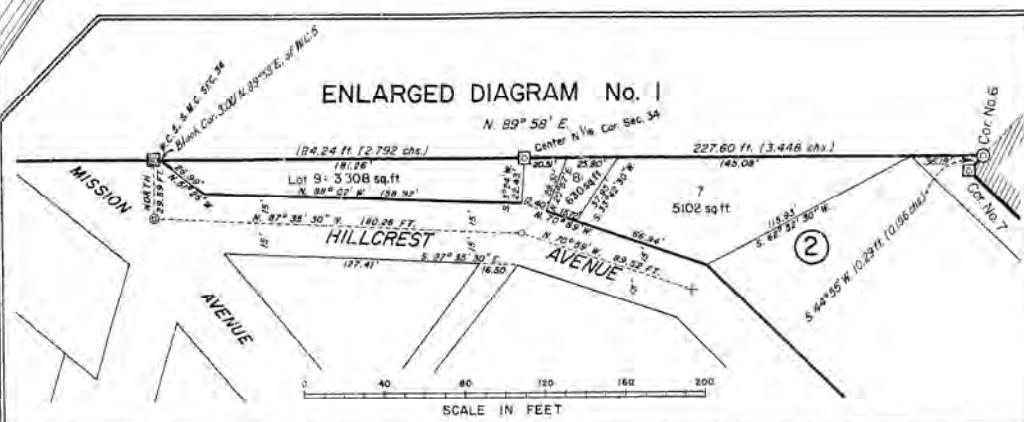




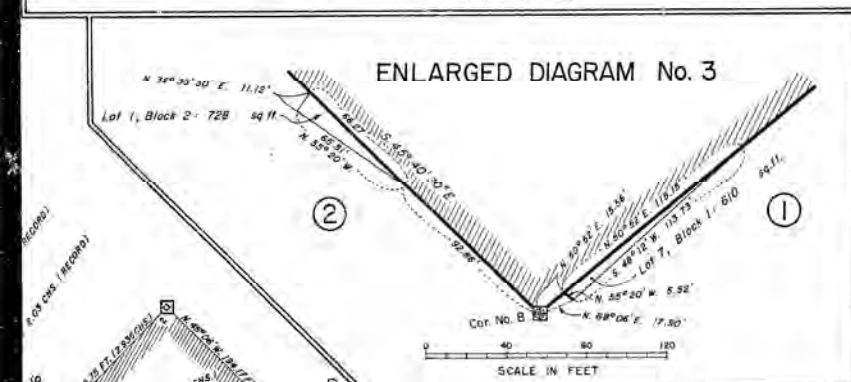




ENLARGED DIAGRAM No. 1



ENLARGED DIAGRAM No. 3



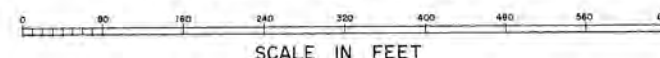
# U. S. SURVEY No. 3036A (BOUNDARIES) AND 3036 B (SUBDIVISION)

## TRACT A and TRACT B TOWNSITE OF NINILCHIK, ALASKA

NET AREA TRACT A: 47.648 ACRES  
AREA U. S. SURVEY No. 367, Tract B: 0.216 "  
Tract C: 0.310 "  
Total: 48.174 "

AREA TRACT B: 3.039 ACRES

LATITUDE 60°02'52"N., LONGITUDE 151°30'43"W.,  
AT CORNER No. 1, TRACT A

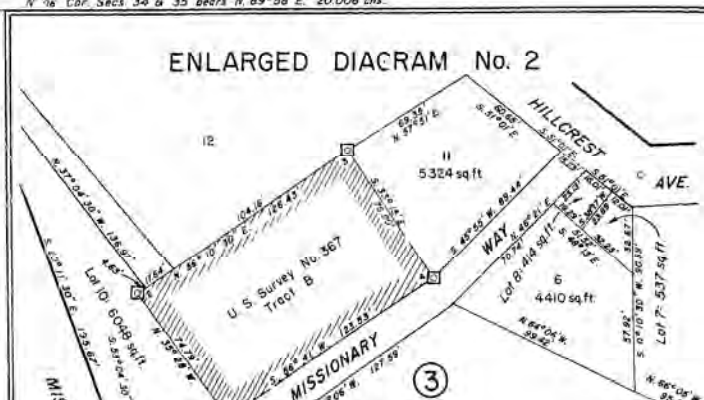


SURVEYED BY ELLIOTT PEARSON, AUGUST 26 TO SEPTEMBER 14, 1950

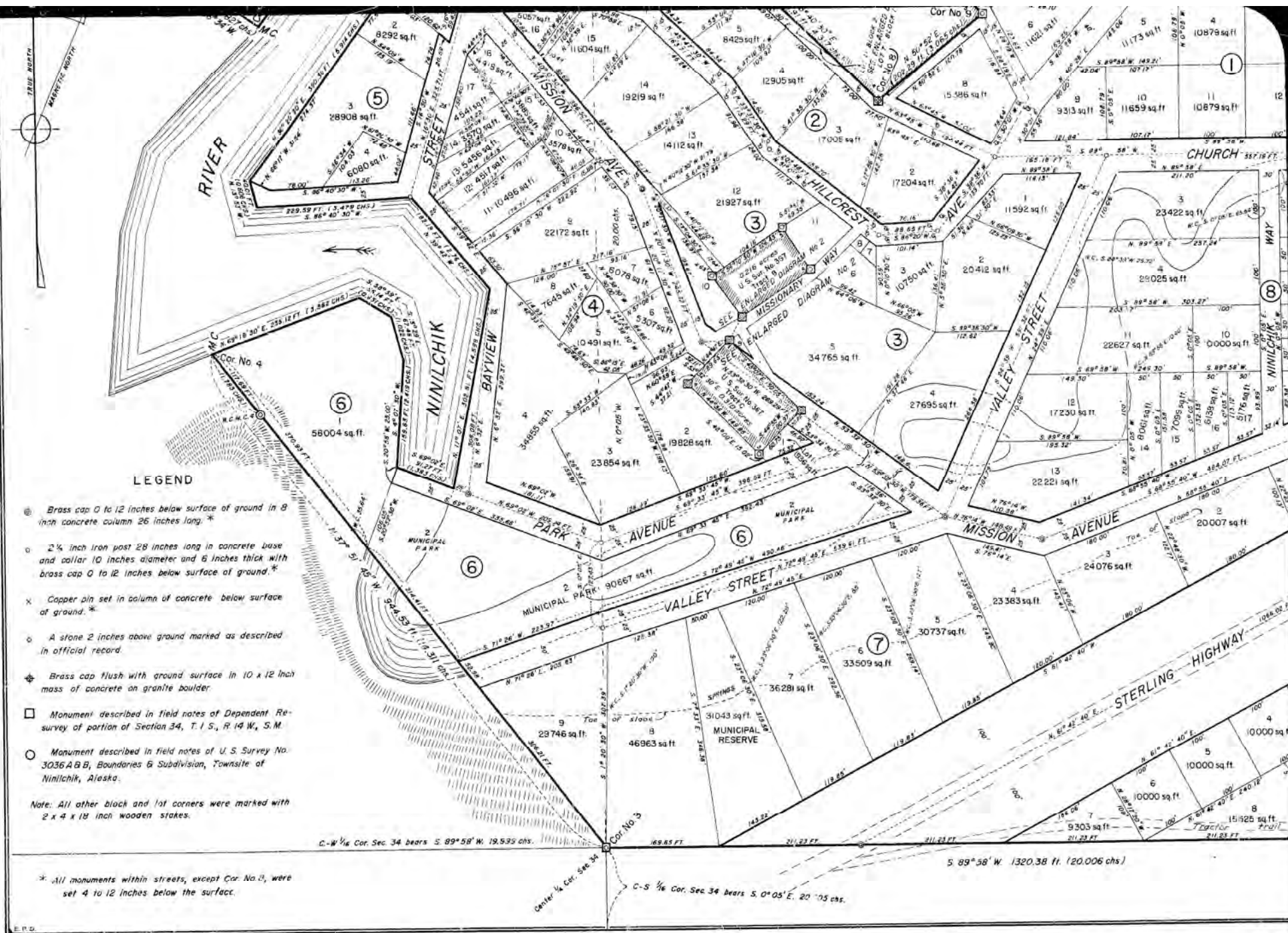
T. 1 S., R. 14 W., S. M.  
NE 1/4, NE 1/4, Sec. 34



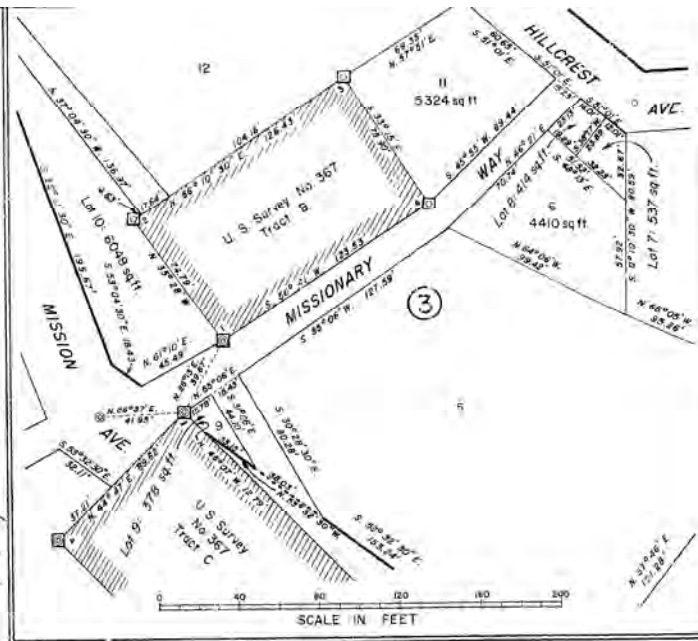
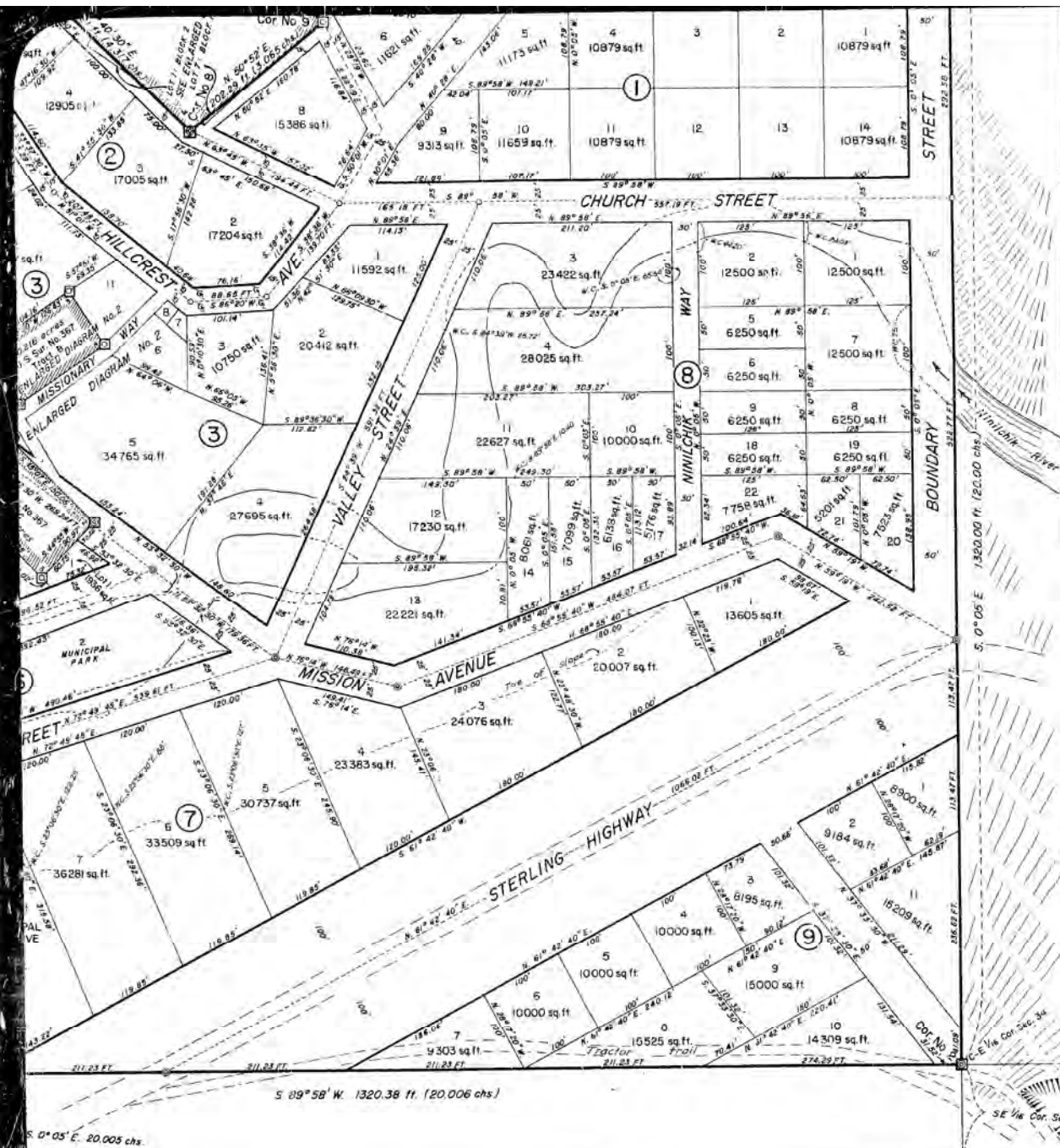
ENLARGED DIAGRAM No. 2











UNITED STATES DEPARTMENT OF THE INTERIOR  
 BUREAU OF LAND MANAGEMENT  
 Washington, D. C., Aug. 7, 1951

This plat is strictly conformable to the approved field notes, and the survey, having been correctly executed in accordance with the requirements of law and regulations of this bureau, is hereby accepted.

For the Director:

*William F. Richards*

Chief, Branch of Surveys

1/4 Cor. Secs. 34 & 35 bears N. 89° 58' E. 20.006 chs.

SE 1/4 Cor. Sec. 34 bears S. 0° 05' E. 20.00 chs.

DATE JULY 5, 2013

THE RETRACEMENT AND DEPENDENT RESURVEY  
OF CERTAIN BOUNDARIES, RIGHT-OF-WAY LIMITS,  
AND LOTS, WITHIN TRACT A OF

**U.S. SURVEY NO.  
3036 A & B, ALASKA**

(THE BOUNDARIES AND SUBDIVISION,  
RESPECTIVELY, OF THE TOWNSITE  
OF NINILCHIK)

INCLUDING CONTIGUOUS PORTIONS OF THE  
SUBDIVISION OF SECTION LINES IN SECTION 34,  
TOWNSHIP 1 SOUTH, RANGE 14 WEST,  
SEWARD MERIDIAN

SITUATED  
SOUTHERLY OF THE STERLING HIGHWAY  
AT THE COMMUNITY OF NINILCHIK

WITHIN  
TOWNSHIP 1 SOUTH, RANGE 14 WEST  
SEWARD MERIDIAN, ALASKA

THE  
GEOGRAPHIC POSITION OF  
CORNER NO. 2, TRACT A, U.S. SURVEY NO. 3036 A & B  
(THE BOUNDARIES AND SUBDIVISION, RESPECTIVELY, OF  
THE TOWNSITE OF NINILCHIK), IDENTICAL WITH THE  
CENTER-EAST 1/16 SECTION CORNER OF SECTION 34  
TOWNSHIP 1 SOUTH, RANGE 14 WEST, SEWARD MERIDIAN  
IS:

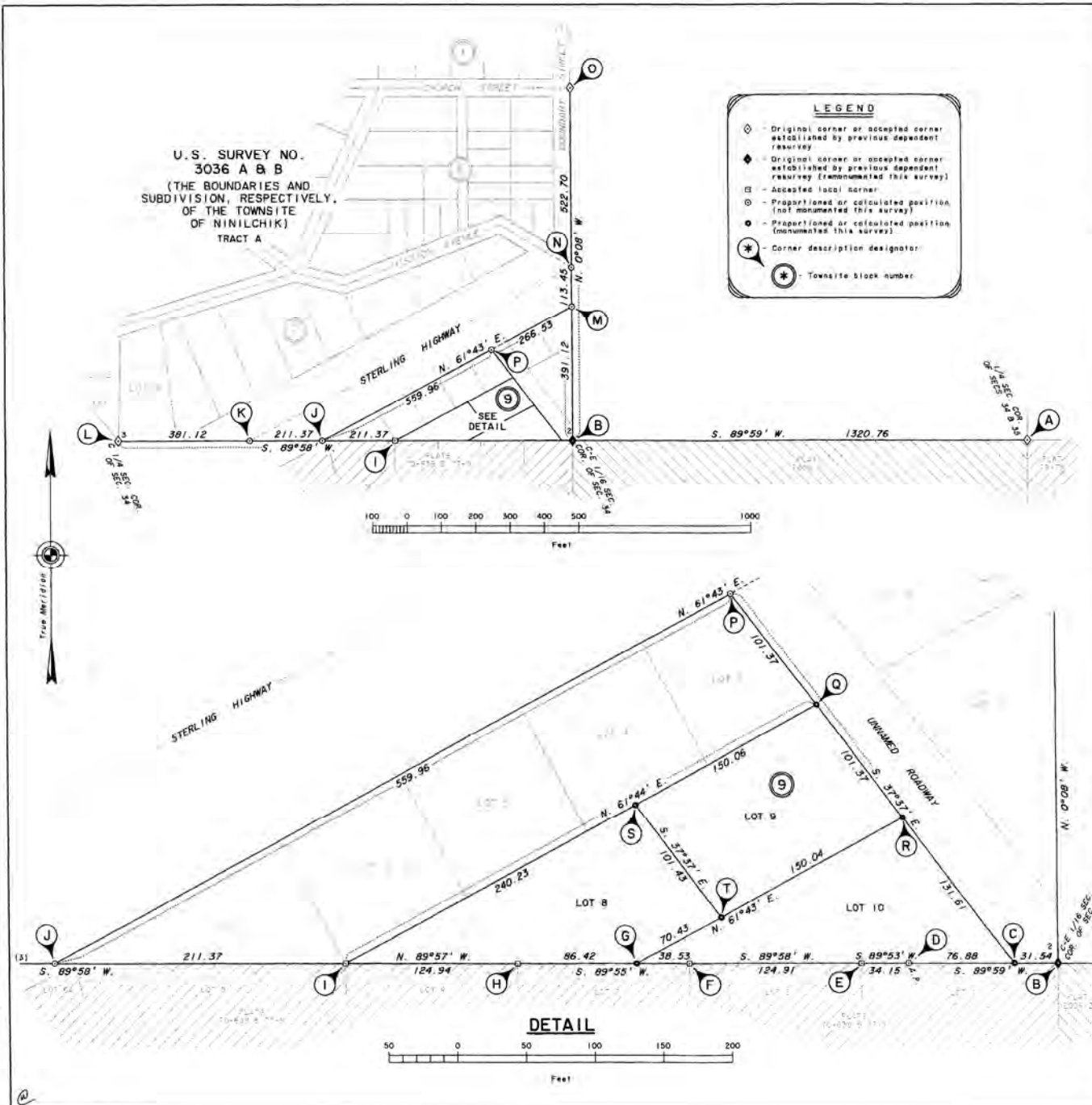
LATITUDE: 60°02'48.860" NORTH  
LONGITUDE: 151°39'35.417" WEST  
NAD 83

SURVEYED BY  
CHRISTOPHER D. WILTA, CADASTRAL SURVEYOR  
JUNE 24 THROUGH JUNE 30, 2012  
UNDER SUPPLEMENTAL SPECIAL INSTRUCTIONS  
DATED MAY 8, 2012  
APPROVED MAY 10, 2012

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Anchorage, Alaska

This plot is strictly conformable to the approved  
field notes, and the survey, having been correctly  
executed in accordance with the requirements of  
law and the regulations of this Bureau, is hereby  
accepted.

For the Director  
*Michael J. Allen* JUNE 7, 2013  
Date  
Chief Cadastrol Surveyor for Alaska







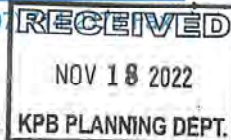
# Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2201

RECEIVED

NOV 18 2022

## PETITION TO VACATE PLATTED RIGHT OF WAY / PLATTED PUBLIC EASEMENT / PLATTED PUBLIC AREA



KPB PLANNING DEPT.

### 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.**

- ☒ - \$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.
- ☒ unnamed alley platted public right of way proposed to be vacated was dedicated by the plat of Ninilchik Townsite USS 3036 Subdivision, filed as Plat No. 65-55 in the Homer Recording District.
- ☒ - 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.
- ☒ - 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	<input checked="" type="checkbox"/>	No
Is the platted right of way used by vehicles / pedestrians / other?		Yes	<input checked="" type="checkbox"/>	No
Is alternative right-of-way being provided?		Yes	<input checked="" type="checkbox"/>	No
Are there utility easements associated with the right of way to be vacated?		Yes	<input checked="" type="checkbox"/>	No
Is the platted right of way and or associated utility easement in use by any utility company?		Yes	<input checked="" type="checkbox"/>	No
If so, which utility provider?				

### LEGAL DESCRIPTION ADJOINING LAND:

Lot, Block, Subd. or street address Lots 10 & 11 Block 4 Ninilchik Townsite	
Section, township, range Sect 34 T1S R14W, SM	
City (if applicable)	General area Ninilchik

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): <u>Jean Jackinsky</u>	Signature
e-mail: <u>jjackinsky@gmail.com</u>	Address: <u>PO Box 1025</u>
Owner of: <u>Lots 10 &amp; 11 Block 4 Ninilchik Townsite</u>	<u>Kasilof, Alaska 99610</u>


Land Owner:

Name (printed):	Signature
e-mail:	Address:
Owner of:	

FOR OFFICE USE ONLY

**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 21, 2022

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Assembly Request / Response

None

Agreements and Contracts

*Authorization to Award a Contract for RFP23-001 Mass Notification System*

Other

*Budget Revisions – November 2022*

*Revenue-Expenditure Report – November 2022*



# Kenai Peninsula Borough

## Purchasing & Contracting

### MEMORANDUM

**TO:** Mike Navarre, Borough Mayor

**THRU:** John D. Hedges, Purchasing & Contracting Director *JH*

**FROM:** Carmen Vick, Project Manager *CV*

**DATE:** December 8, 2022

**RE:** Authorization to Award a Contract for RFP23-001 Mass Notification System

On August 2, 2022, the Kenai Peninsula Borough Purchasing & Contracting Department formally solicited proposals for RFP23-001 Mass Notification System. The request for proposals was advertised in the Peninsula Clarion and the Anchorage Daily News on August 2, 2022 and in the Homer News on August 4, 2022

The project consists updating 14 siren sites, including the hardware and software components, while maintaining the functionality and redundancy of the current system during the replacement process. Additional siren sites or indoor alerting capabilities may be added; therefore, proposals should include: 1) the cost to replace the 14 siren sites; 2) the cost to add a single new siren site; and 3) the cost to add audio and visual alerting capabilities inside and outside of buildings.

On the due date of August 23, 2022, six (6) proposals were received and reviewed by a review committee as follows:

<u>FIRMS</u>	<u>LOCATION</u>	<u>TOTAL SCORE</u>
HQE Systems, Inc.	Temecula, California	369
Arcticom / Bering Straits Native Corporation	Anchorage, Alaska	202
West Shore Services	Allendale, Michigan	168
Acoustic Technology, Inc.	Boston, Massachusetts	167
Ascension Associates Consulting, LLC	Pike Road, Alabama	146
Northern Support Services	Anchorage, Alaska	113

The highest-ranking proposal, which includes a cost factor, was submitted by HQE Systems, Inc. with a lump sum cost proposal of \$702,807.80. The proposal review committee recommends award of a contract to HQE Systems, Inc. of Temecula, California. Your approval for this award is hereby requested.

Funding of this contract will be charged to account number 407.11250.22SIR.43011 &  
705.94910.21E06.43011X 48120

Mike Navarre

Mike Navarre, Borough Mayor

12/9/2022

Date

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No.	<u>407.11250.22SIR.43011 - \$681,807.80</u>
	<u>705.94910.21E06.48120 - \$21,000.00</u>
Acct. No.	<u><del>705.94910.21E06.43011 - \$23,000.00</del></u>
By: <u>CJ BH</u>	Date: <u>12/9/2022</u>

NOTES: NA

# Kenai Peninsula Borough

## Finance Department

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### MEMORANDUM

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

**THRU:** Mike Navarre, Borough Mayor *MN*

**THRU:** Brandi Harbaugh, Finance Director *DBY*

**FROM:** Sarah Hostetter, Payroll Accountant *SH*

**DATE:** December 12, 2022

**RE:** Budget Revisions – November 2022

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Attached is a budget revision listing for November 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.

**CLERK'S OFFICE - ELECTIONS**

To cover overlooked contract fees for the use of election software.

100-11130-00000-43410 (Printing)		\$5,323.50
100-11130-00000-40120 (Temporary Wages)		\$10,013.50
100-11130-00000-43019 (Software Licensing)	\$15,337.00	

**FINANCE - PROPERTY TAX & CASH MANAGEMENT**

To cover an unexpected printer replacement.

100-11440-00000-40110 (Regular Wages)		\$421.19
100-11440-00000-48710 (Minor Office Equipment)	\$421.19	

**NORTH PENINSULA RECREATION**

To cover an unemployment claim that came in.

225-61110-00000-42210 (Operating Supplies)		\$1,480.00
225-61110-00000-40511 (Other Benefits)	\$1,480.00	

**PLANNING - GEOGRAPHIC INFO SYSTEMS**

To cover time for a Seward flood event that was not declared a disaster.

100-11232-00000-42210 (Operating Supplies)		\$234.14
100-11232-23F1A-40410 (Leave)	\$18.91	
100-11232-23F1A-40130 (Overtime Wages)	\$60.45	
100-11232-23F1A-40210 (FICA)	\$9.78	
100-11232-23F1A-40321 (Health Insurance)	\$33.13	
100-11232-23F1A-40110 (Regular Wages)	\$80.60	
100-11232-23F1A-40221 (PERS)	\$31.03	
100-11232-23F1A-40322 (Life Insurance)	\$0.24	

**PLANNING - RIVER CENTER**

To cover a higher than expected router replacement.

100-21135-00000-48720 (Minor Office Furniture)		\$66.02
100-21135-00000-48710 (Minor Office Equipment)		\$1,362.00
100-21135-00000-43920 (Dues & Subscriptions)		\$52.47
100-21135-00000-48740 (Minor Machines & Equipment)		\$761.74
100-21135-00000-48120 (Office Machines)	\$2,242.23	

**PLANNING - RIVER CENTER**

To purchase supplies related to an unexpected ATS switch replacement.

100-21135-00000-43780 (Building & Grounds Maintenance)		\$2,200.00
100-21135-00000-42310 (Repair & Maintenance Supplies)	\$2,200.00	

**NOVEMBER 2022 CONTINUED****INCREASE****DECREASE****PURCHASING DEPARTMENT**

To cover a nameplate engraving.

100-11227-00000-42210 (Operating Supplies)		\$30.00
100-11227-00000-43011 (Contract Services)	\$30.00	

**SOLID WASTE - ADMINISTRATION**

To purchase a 2023 ZOOM license.

290-32010-00000-48710 (Minor Office Equipment)		\$260.00
290-32010-00000-43019 (Software Licensing)	\$260.00	

**SOLID WASTE - HOMER TRANSFER**

To purchase coir logs.

290-32310-00000-43780 (Buildings & Grounds Maintenance)		\$2,000.00
290-32310-00000-42210 (Operating Supplies)	\$2,000.00	

Kenai Peninsula Borough  
Finance Department

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**MEMORANDUM**

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

**THRU:** Mike Navarre, Borough Mayor *MN*

**THRU:** Brandi Harbaugh, Finance Director *BH*

**FROM:** Sarah Hostetter, Payroll Accountant *SH*

**DATE:** December 12, 2022

**RE:** Revenue-Expenditure Report – November 2022

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Attached is the Revenue-Expenditure Report of the General Fund for the month of November 2022. Please note that 41.67% of the year has elapsed, 61.93% of budgeted revenues have been collected, and 39.94% of budgeted expenditures have been made.

KENAI PENINSULA BOROUGH  
Revenue Report  
For the Period  
November 1 through November 30, 2022

ACCOUNT NUMBER	DESCRIPTION	ESTIMATED REVENUE	YEAR TO DATE RECEIPTS	MONTH TO DATE RECEIPTS	VARIANCE	% COLLECTED
31100	Real Property Tax	\$ 31,396,714	\$ 30,109,084	\$ 6,039,135	\$ (1,287,630)	95.90%
31200	Personal Property Tax	1,867,988	1,914,756	544,990	46,768	102.50%
31300	Oil Tax	6,755,283	6,755,285	2,182	2	100.00%
31400	Motor Vehicle Tax	642,580	151,893	51,397	(490,687)	23.64%
31510	Property Tax Penalty & Interest	717,562	164,622	82,424	(552,940)	22.94%
31610	Sales Tax	42,000,000	16,784,522	5,641,123	(25,215,478)	39.96%
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	-	(216,614)	56.68%
34210	Revenue Sharing	894,402	894,402	-	-	100.00%
37350	Interest on Investments	364,493	(195,678)	253,193	(560,171)	-53.68%
39000	Other Local Revenue	265,000	185,036	35,855	(79,964)	69.83%
290	Solid Waste	602,000	195,680	5,779	(406,320)	32.50%
Total Revenues		\$ 92,425,669	\$ 57,242,989	\$ 12,656,076	\$ (35,182,680)	61.93%



**KENAI PENINSULA BOROUGH**  
**Expenditure Report**  
For the Period  
November 1 through November 30, 2022

DESCRIPTION	REVISED BUDGET	YEAR TO DATE EXPENDED	MONTH TO DATE EXPENDED	AMOUNT ENCUMBERED	AVAILABLE BALANCE	% EXPENDED
Assembly:						
Administration	\$ 542,587	\$ 278,414	\$ 94,203	\$ 31,726	\$ 232,447	51.31%
Clerk	614,064	221,968	54,227	13,335	378,761	36.15%
Elections	474,513	198,477	85,807	29,407	246,629	41.83%
Records Management	381,831	147,733	20,028	17,569	216,529	38.69%
Mayor Administration	1,114,354	282,634	35,277	5,854	825,866	25.36%
Purch/Contracting/Cap Proj	710,159	222,364	46,813	20,031	467,764	31.31%
Human Resources:						
Administration	930,768	302,945	60,409	15,732	612,092	32.55%
Print/Mail	240,995	82,694	13,611	26,395	131,906	34.31%
Custodial Maintenance	132,655	46,486	8,990	447	85,722	35.04%
Information Technology	2,463,342	805,153	206,392	72,339	1,585,850	32.69%
Emergency Management	1,068,719	318,264	49,596	81,602	668,852	29.78%
Legal Administration	1,610,948	416,801	102,973	421,173	772,974	25.87%
Finance:						
Administration	575,568	227,458	58,083	5,160	342,949	39.52%
Services	1,197,353	466,217	69,218	40,129	691,006	38.94%
Property Tax	1,187,490	439,894	64,807	51,268	696,328	37.04%
Sales Tax	1,226,455	377,214	79,108	1,042	848,200	30.76%
Assessing:						
Administration	1,482,895	551,224	95,009	44,783	886,887	37.17%
Appraisal	1,784,074	626,929	128,321	10,581	1,146,564	35.14%
Resource Planning:						
Administration	1,668,055	495,590	85,185	24,151	1,148,314	29.71%
GIS	722,796	292,203	26,202	1,263	429,330	40.43%
River Center	791,460	307,652	66,013	37,926	445,881	38.87%
Senior Citizens Grant Program	791,444	110,910	110,910	680,534	-	14.01%
School District Operations	61,313,017	25,945,030	2,201,102	-	35,367,987	42.32%
Solid Waste Operations	12,466,726	4,399,195	571,809	1,670,157	6,397,374	35.29%
Economic Development	549,878	38,935	38,935	325,615	185,328	7.08%
Non-Departmental	1,767,099	1,464,287	47,603	44,780	258,032	82.86%
Total Expenditures	\$ 97,809,244	\$ 39,066,672	\$ 4,420,632	\$ 3,673,001	\$ 55,069,572	39.94%



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



- 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.**

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Brent Johnson, Assembly President

ATTEST:

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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

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## 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)

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[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.



# Kenai Peninsula Borough Assembly

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## 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)

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[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 table 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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Re: Tupper Amendment #2 to O2022-36

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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.

# Kenai Peninsula Borough Assembly

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## 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)

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[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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Re: Tupper Amendment #3 to O2022-36

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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.

# Kenai Peninsula Borough Assembly

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## 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)

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[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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Re: Tupper Amendment #4 to O2022-36 Replacement

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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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Re: Tupper Amendment #4 to O2022-36 Replacement

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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.

# Kenai Peninsula Borough Assembly

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## 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)

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[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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 Re: Tupper Amendment #5 to O2022-36

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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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Re: Tupper Amendment #5 to O2022-36

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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.

# Kenai Peninsula Borough Assembly

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## 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)

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[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.

# Kenai Peninsula Borough Assembly

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## MEMORANDUM

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

**FROM:** Richard Derkevorkian, Assembly member 

**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)

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[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.

# Kenai Peninsula Borough Assembly

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## MEMORANDUM

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

**FROM:** Richard Derkevorkian, Assembly member 

**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)

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[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

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## MEMORANDUM

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

**FROM:** Richard Derkevorkian, Assembly member 

**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)

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[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 unreclaimed 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

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## MEMORANDUM

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

**FROM:** Richard Derkevorkian, Assembly member 

**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)

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[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

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## MEMORANDUM

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

**FROM:** Richard Derkevorkian, Assembly member 

**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.]~~ 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 **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

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## 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)

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[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

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## 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)

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[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

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## 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)

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[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

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## 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)

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[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

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## 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)

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[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

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## 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)

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[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

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## 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)

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[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

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## 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)

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[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

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## MEMORANDUM

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

**FROM:** Richard Derkevorkian, Assembly member 

**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)

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[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.

# Kenai Peninsula Borough Assembly

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## 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)

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[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.

# Kenai Peninsula Borough Assembly

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## MEMORANDUM

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

**FROM:** Brent Johnson, Assembly President 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)

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[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.



# Kenai Peninsula Borough Assembly

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## MEMORANDUM

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

**FROM:** Brent Johnson, Assembly President 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)

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[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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October 25, 2022

Re: LAYDOWN Johnson Amendment #3

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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 **[1]** ;

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October 25, 2022

Re: LAYDOWN Johnson Amendment #3

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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.

# Kenai Peninsula Borough Assembly

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## 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)

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[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

Page 2 of 2  
October 25, 2022  
Re: LAYDOWN Johnson Amendment #4

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

Your consideration of this amendment is appreciated.

# Kenai Peninsula Borough Assembly

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## MEMORANDUM

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

**FROM:** Brent Johnson, Assembly President 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)

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[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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October 25, 2022

Re: LAYDOWN Johnson Amendment #5

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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.

# Kenai Peninsula Borough Assembly

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## MEMORANDUM

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

**FROM:** Brent Johnson, Assembly President 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)

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[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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October 25, 2022

Re: LAYDOWN Johnson Amendment #6

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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.

# Kenai Peninsula Borough Assembly

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## MEMORANDUM

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

**Thru:** Mike Navarre, Mayor <sup>MN</sup>  
Max Best, Chief of Staff <sup>MB</sup>

**FROM:** Robert Ruffner, Planning Director <sup>RR</sup>

**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)

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[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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Re: Administrative Amendment #1

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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.

# Kenai Peninsula Borough Assembly

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## 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)

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[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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October 13, 2022

Re: Administrative Amendment #2

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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.

# Kenai Peninsula Borough Assembly

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## 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)

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[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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Re: Administrative Amendment #3

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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~~
  - ~~i.] 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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Re: Administrative Amendment #3

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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
  - ~~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.



# Kenai Peninsula Borough Assembly

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## 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)

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[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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Re: Administrative Amendment #4

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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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Re: Administrative Amendment #4

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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.

# Kenai Peninsula Borough Assembly

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## 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)

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[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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Re: Administrative Amendment #5

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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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Re: Administrative Amendment #5

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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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October 13, 2022

Re: Administrative Amendment #5

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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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October 13, 2022

Re: Administrative Amendment #5

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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.



# Kenai Peninsula Borough Assembly

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## 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)

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[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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Re: Administrative Amendment #6

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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.

# Kenai Peninsula Borough Assembly

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## 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 #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)

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[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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Re: Administrative Amendment #7

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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.

# Kenai Peninsula Borough Assembly

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## 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)

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[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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Re: Administrative Amendment #8

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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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Re: Administrative Amendment #8

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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.



# Kenai Peninsula Borough Assembly

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## 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)

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[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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Re: Administrative Amendment #9

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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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Re: Administrative Amendment #9

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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.

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
<b>KPB 21.25.050</b>	30-day staff review period of an application.	21-day staff review period of an application.	Increase from 21 to 30 days.	
<b>KPB 21.25.060 - Notice</b>	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.	
<b>KPB 21.29.005 - Intent and Purpose</b>	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.	
<b>KPB 21.29.010 - Applicability</b>	<p><b>A.</b> Applies to all private and public lands, except as preempted by other law;</p> <p><b>B.</b> Does not apply within the incorporated cities;</p> <p><b>C.</b> Prohibits extraction within 300 feet of riparian wetlands and naturally-occurring open water bodies;</p>	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
	<b>D.</b> Operations must be conducted in accordance with current Alaska DEC Manual for extraction projects.			
<b>KPB 21.29.015</b> <b>-Material extraction exempt from obtaining a permit</b>	<p><b>A.</b> Exempts extraction disturbing less than one acre if: -Not in floodplain; -Does not enter water table; and -Does not cross property boundaries.</p> <p>No excavation within 32' of lot line.</p> <p><b>B.</b> Exempts dewatered bars within SBCFSA/Snow River.</p> <p><b>C.</b> Exempts PEUs but by 2026 must: -Provide reclamation plan -Comply with buffer zone requirements</p>	<p>Currently 21.29.010</p> <p><b>A.</b> Exempts extraction disturbing less than one acre if: -Not in floodplain; -Does not enter water table; and -Does not cross property boundaries.</p> <p>No excavation within 20 feet of ROW or 10 feet of lot line.</p> <p><b>B.</b> Exempts dewatered bars within SBCFSA/ Snow River.</p> <p><b>C.</b> PEUs exempt but floodplain permit required within mapped special flood hazard area.</p>	<p>New code section.</p> <p>No excavation within 32' of lot lines.</p> <p>PEUs exempt but must provide reclamation plan &amp; comply with buffer zone requirements by 2026.</p>	<p>Require registration of excavation &lt;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.</p>

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
<b>KPB 21.29.020- Types of permits available</b>	<b>Counter permit</b> -1 to 10 acres -No processing -No water table extraction -Only 21.29.050 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 CLUP types.	<b>Counter Permits and Earth Materials Extraction CLUP -</b> 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
	<b>Earth Materials Extraction CLUP</b> -Activity disturbing more than 10 acres -No processing -No water table extraction -Only 21.29.050 conditions apply			Allow for up to 500 cubic yards of processing material between hours of 8AM to 6PM.
	<b>Earth Materials Processing CLUP</b> -Required for all on- site processing, screening, or crushing -21.29.050 and 21.29.055 conditions apply			<b>Earth Materials Processing CLUP</b> Add blasting as a type of processing. Clarify processing does not mean striping and
	<b>Earth Materials Extraction within Water Table CLUP</b> -Required for all earth materials extraction within water table -21.29.050 and			

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	21.29.057 conditions apply			segregation with excavation equipment.
<b>KPB 21.29.030- Application procedure</b>	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
<b>KPB 21.29.040- Standards for sand, gravel or material sites</b>	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.
<b>KPB 21.29.045</b>	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
	<p>documentation from pertinent authorities:</p> <ul style="list-style-type: none"> <li>-Mining license (AK Dept of Revenue)</li> <li>-Mining permit (ADNR)</li> <li>-Permits and plans required by DEC</li> <li>-Permits from USACE, if applicable</li> <li>-Other applicable permits from other regulatory bodies authorized to regulate mining activities or earth materials extraction</li> </ul> <p>Must comply with other regulations such as air and water quality, and hazardous materials</p> <p>Violations subject to enforcement under 21.50</p>		<p>state/federal agencies prior to approval of KPB permit.</p> <p>All activity must comply with state/federal regulations governing air/water quality and hazardous materials.</p> <p>Violations subject to enforcement under 21.50.</p>	Explicitly add ADNR for temporary water withdrawals
<b>KPB 21.29.050</b>	<p><b>NINE MANDATORY CONDITIONS</b></p> <p><b>1. Buffers:</b> 32-foot buffer/may include natural vegetation for street-level visual and noise screening; 8-foot fence or berm with a 2:1</p>	<p><b>Buffers:</b> 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</p>	<p>Allows flexibility to meet demands of a specific application vs. "one size fits all" of current code.</p> <p><b>Buffers:</b></p> <ul style="list-style-type: none"> <li>-Street-level noise and visual screening (as</li> </ul>	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
	<p>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.</p> <p><b>2. Water source separation:</b> 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.</p> <p><b>3. Roads:</b> Operations impacting KPB roads must comply with 14.40 and subject to remedies in 14.40.</p> <p><b>4. Dust control:</b> Water or calcium chloride on haul</p>	<p>be replaced within 30 days. Planning Commission may waive where topography or placement of natural barriers make screening not feasible or unnecessary</p> <p><b>Water source separation:</b> 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.</p> <p><b>Roads:</b> Operations impacting KPB roads must comply with KPB 14.40.175 and subject to remedies in 14.40.</p>	<p>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</p> <p><b>Water source separation:</b> -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</p>	<p>Clarify that street level means elevation at property boundaries.</p> <p>"Note adjacent means adjoining in this instance, not separated by a ROW"</p>

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	<p>roads within boundaries of material site</p> <p><b>5. Hours of operation:</b> 6 am-9m but decision-maker may waive for specific seasonal project. Waiver valid for six consecutive months.</p> <p><b>6. Groundwater elevation:</b> Requires groundwater monitoring/one well 4' below proposed excavation per ten acres of excavated area.</p> <p><b>7. Setback:</b> 250' from LOZD/school/senior center/child care facility/etc.</p> <p><b>8. Boundaries:</b> Must stake buffers, ROWs, easements at visible intervals by professional land surveyor. Stakes must be placed prior to permit issuance.</p>	<p><b>Dust control:</b> Water or calcium chloride on haul roads within boundaries of material site</p> <p><b>Hours of operation:</b> Rock crushing equipment shall not be operated between 10 pm and 6 am.</p> <p><b>Boundaries:</b> Staked at sequentially visible intervals where boundaries are within 300' of excavation perimeter. Verification and staking by professional land surveyor.</p> <p><b>Processing:</b> See below.</p>	<p>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.</p> <p><b>Roads/Dust control:</b> Essentially the same.</p> <p><b>Hours of operation:</b> 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.</p> <p><b>Groundwater elevation:</b> Requires groundwater monitoring.</p> <p><b>Setback:</b> 250' from LOZD/school/senior center/child care facility/etc.</p>	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	<p><b>9. Processing:</b> Must comply with conditions in new section 21.29.055 (Earth Materials Processing CLUP/see below.)</p> <p><b>SIX DISCRETIONARY CONDITIONS</b></p> <p><b>1. Setbacks/Buffer Areas:</b> 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.</p> <p><b>2. Road maintenance and repair:</b> Permittee may be required to maintain/repair damaged public roads; requires consultation with RSA Director.</p> <p><b>3. Ingress/egress:</b> Decision-maker may require driveway authorization.</p>		<p><b>Boundaries:</b> Stakes must be placed prior to permit issuance rather than time of application.</p> <p><b>Processing:</b> Requires compliance with new section 21.29.055 and Earth Materials Processing CLUP.</p> <p>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</p>	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	<p><b>4. Dust suppression:</b> On public ROWs when natural precipitation inadequate to suppress dust generated by material site traffic.</p> <p><b>5. Surface water protection:</b> As specified in 21.29.030(A)(8)(a).</p> <p><b>6. Street-level screening:</b> Street-level visual screening, noise mitigation, &amp; lighting restrictions as appropriate for the surrounding area and in accordance with 21.29.040 standards set to protect against attractive nuisance issues.</p>		to protect against attractive nuisances	
<b>KPB 21.29.055- Earth materials processing</b>	<p>In addition to mandatory conditions in 21.29.050(A).</p> <p><b>A.</b> Conditioning or processing equipment must be operated at least 300' from parcel boundaries. PC may waive or reduce distance</p>	<p>300' setback for conditioning or processing equipment.</p> <p>PC may waive or reduce in consideration of and in accordance with existing uses of adjacent property at the time.</p>	<p>New code section.</p> <p>PC may waive or reduce in consideration of and in accordance with existing uses of the "properties in the vicinity". Present code</p>	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	<p>requirement in consideration of and in accordance with existing uses of properties in the vicinity.</p> <p><b>B.</b> Hours of operation for processing equipment between 8am and 7pm or as PC determines.</p> <p>PC may also grant exceptions (not to exceed 120 days) for:</p> <ul style="list-style-type: none"> <li>-Emergencies</li> <li>-Good cause finding that increase serves public purpose and is not harmful to public health, safety, and general welfare</li> </ul> <p>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.</p>		<p>is "adjacent property".</p> <p>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.</p>	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
<b>KPB 21.29.057- Material extraction in water table</b>	<p>In addition to mandatory conditions in 21.29.050(A).</p> <p>Dewatering prohibited (21.29.050(A)(2)(b)).</p> <p><b>A.</b> Applicant must meet the following requirements prior to applying:</p> <ol style="list-style-type: none"> <li>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.</li> <li>2. Under the supervision of a qualified professional, measurement of seasonal high-water table elevation, groundwater flow direction, hydraulic gradient and water table elevation.</li> </ol>	<p>Excavation within 300' horizontal feet of water source may be permitted based on:</p> <ul style="list-style-type: none"> <li>-No negative impact to quantity of an aquifer serving existing water sources;</li> <li>-Minimum of three water monitoring tubes or well casings to determine flow direction, flow rate, and water elevation; and</li> <li>-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.</li> </ul> <p>-Operations shall not breach aquifer-confining layer.</p> <p>No extraction activities within 100 linear feet from waterbodies.</p>	<p>New code section.</p> <p>In addition to 21.29.050 conditions, sets forth additional requirements and conditions primarily to protect water quantity.</p> <p>Qualified professional must be able to characterize entire property permitted for excavation through sufficient monitoring wells and test pits.</p> <p>Qualified professional must supervise measurement of seasonal high-water table elevation, groundwater flow direction, hydraulic gradient and water table elevation.</p> <p>Based upon available data, interpretations of data and knowledge of groundwater</p>	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	<p>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.</p> <p>4. Report must be submitted with CLUP application. Subsection lists what must be included in the report.</p> <p><b>B.</b> Must also include:</p> <p>1. Description of proposed extent and depth of material extraction beneath seasonal high-water table.</p> <p>2. Report 21.29.057(A)(4) report, monitoring plan</p>	<p>Additional setback from lakes, rivers, anadromous streams and riparian wetlands may be required.</p> <p>-Permits may contain additional conditions addressing surface water diversion.</p>	<p>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.</p> <p>Conditions:            -Implementation of monitoring and spill prevention/control/countermeasures plan;            -Monthly measurement of groundwater and retention of groundwater data for two years after</p>	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	<p>and spill prevention/control/countermeasures plan.</p> <p><b>C. Conditions</b></p> <ol style="list-style-type: none"> <li>1. Implement monitoring plan</li> <li>2. Implement spill prevention/control/countermeasures plan</li> <li>3. Monthly measurement (during active extraction) of groundwater flow direction, hydraulic gradient and groundwater table elevation</li> <li>4. Retain water elevation monitoring data for two years after completion of reclamation activities</li> <li>5. Annual report including water table elevation monitoring data from qualified professional</li> <li>6. Operations must not breach or extract material from a confined</li> </ol>		<p>completion of reclamation activities;</p> <ul style="list-style-type: none"> <li>-Annual report from qualified professional;</li> <li>-No breach or extraction from a confined aquifer or a confining layer beneath a perched aquifer; and</li> <li>-Setbacks from existing drinking water sources.</li> </ul>	



Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	<p>aquifer or a confining layer beneath a perched aquifer. Subsection sets forth what must be done if there is a breach.</p> <p>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</p>			
<b>KPB 21.29.060 -Reclamation plan</b>	<p><b>A.</b> Reclamation with site plan required. 5 year reclamation plan must be submitted with permit renewal request.</p> <p><b>B.</b> Applicant may re-vegetate and reclaim all disturbed land upon exhausting the material site or time determined</p>	<p><b>A.</b> Reclamation Plan required.</p> <p><b>B.</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.</p>	<p>"May" rather than "shall" revegetate.</p> <p>Bonding required.</p> <p>Plan survives permit termination and must list total acreage to be reclaimed.</p>	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	<p>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.</p> <p><b>C.</b> Measures listed must be considered as part of every reclamation plan, 6 reclamation measures including ponding and protection against public nuisance.</p> <p><b>D.</b> Plan must list total acreage to be reclaimed.</p> <p><b>E.</b> Close-out – reclamation survives permit expiration, termination or revocation.</p>	<p>Reclamation must occur for area exceeding 5 acres prior to 5 year renewal or as PC specifies.</p> <p><b>C.</b> Measures listed must be considered as part of every reclamation plan, 6 reclamation measures including ponding.</p> <p><b>D.</b> Plan must list total acreage to be reclaimed each year, a list of equipment and a time schedule for reclamation measures.</p>	Protection against public nuisance.	
<b>KPB 21.29.065 -Effect of permit denial</b>	<b>A.</b> 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
	<p><b>B.</b> Applicant denied CLUP permit cannot reapply within same calendar year w/out new evidence or circumstances.</p> <p><b>C.</b> Applicant bears burden of proof.</p>			
<b>KPB 21.29.070 -Permit renewal, modification and revocation</b>	<p><b>A.</b> Renewal by application every 5 years.</p> <p><b>B.</b> Administrative approval if compliance with all conditions, no modification and no violation in prior 2 years.</p> <p><b>C.</b> 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.</p>	<p><b>A.</b> Must request permit extension every 5 years, 30 days prior to expiration.</p> <p><b>B.</b> If no modification to operations or conditions proposed, a permit extension certificate may be issued by planning director.</p> <p><b>C.</b> 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.</p>	<p>Renewal application not request in writing.</p> <p>Possibility for public hearing on renewal and additional discretionary conditions on renewal.</p>	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	<p><b>D.</b> Modifications processed per KPB 21.29.030 -.050</p> <p><b>E.</b> Renewal fee is same as original permit fee.</p> <p><b>F.</b> Failure to apply for renewal = permit expiration.</p> <p><b>G.</b> Permits revoked per KPB 21.50.</p>	<p><b>D.</b> Modification processed per KPB 21.29.030-.050.</p> <p><b>E.</b> 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.</p> <p><b>F.</b> Failure to apply for renewal = permit expiration.</p> <p><b>G.</b> Permits revoked per KPB 21.50.</p>		
<b>KPB 21.29.080 -Permit Close-out</b>	<p>Requires permittee to request close-out of permit and verification of reclamation compliance.</p> <p>Bonding released at close-out.</p>	<p>Current code section is titled "Permit Termination" and provides for a termination document and verification of site reclamation.</p>	<p>Terminology change from permit "termination" to "close-out". Explicit that reclamation requirement survives permit expiration or revocation &amp; that bonds are released upon close-out.</p>	

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
<b>KPB 21.29.100 -Recordation</b>	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.	
<b>KPB 21.29.110 -Violations</b>	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.	
<b>KPB 21.29.115 -Permit transfers</b>	Planning director approves or disapproves permit transfers. Permits do not run with the land.	N/A	New section of code.	
<b>KPB 21.29.120 -Prior-existing uses</b>	<p><b>A.</b> Determination – mirrors process under KPB 21.44 (LOZD) for nonconforming-use determination</p> <p><b>B.</b> Director provides notice of application and issues decision. Decision can be appealed to the Planning Commission.</p> <p><b>C.</b> Establishes 365-day period for abandonment.</p>	<p><b>A.</b> 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.</p> <p><b>B.</b> Must have applied to be registered as a PEU prior to January 1, 2001.</p>	<p>By 1/1/2026, PEUs required to come into compliance with:</p> <ul style="list-style-type: none"> <li>-Reclamation requirements;</li> <li>-Hours of operation; &amp;</li> <li>-Buffer area.</li> </ul> <p>365 period of nonuse/ no operations = Abandonment</p>	Modify 365 days of no use to: 5years=abandonment

Code Section	ORD 2022-36	Current Code	Highlighted Changes	Potential amendments Planning Director
	<p><b>D.</b> Prohibits increasing, intensifying or expanding or moving the use.</p> <p><b>E.</b> Establishes standards to guide decision-making process.</p> <p><b>F.</b> Requires PEU compliance with KPB 21.29 reclamation plan and hours of operation by January 1, 2026.</p> <p><b>G.</b> 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.</p>	<p><b>C.</b> 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.</p>		<p>F. ADD some flexibility to the acceptable reclamation plans for PEUs that can demonstrate hardship in achieving standards.</p> <p>i.e.: Topsoil requirements <i>Sites that have not planned for this may have undue hardship.</i></p>

# Kenai Peninsula Borough Assembly

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## MEMORANDUM

**TO:** Members, Kenai Peninsula Borough Assembly

**FROM:** Brent Johnson, Assembly President BJ  
Lane Chesley, Assembly Member (B)

**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)

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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

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### 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

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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.
<b>KPB 21.29.005 - Intent and Purpose</b>	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.
<b>KPB 21.29.010 - Applicability</b>	<p><b>A.</b> Applies to all private and public lands, except as preempted by other law;</p> <p><b>B.</b> Does not apply within the incorporated cities;</p> <p><b>C.</b> Prohibits extraction within 300 feet of riparian wetlands and naturally-occurring open water bodies;</p> <p><b>D.</b> Operations must be conducted in accordance with current Alaska DEC Manual for extraction projects.</p>	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.
<b>KPB 21.29.015 -Material extraction exempt from obtaining a permit</b>	<p><b>A.</b> Exempts extraction disturbing less than one acre if:  -Not in floodplain;  -Does not enter water table; and  -Does not cross property boundaries.</p> <p>No excavation within 32' of lot line.</p> <p><b>B.</b> Exempts dewatered bars within SBCFSA/Snow River.</p>	<p>Currently 21.29.010</p> <p><b>A.</b> Exempts extraction disturbing less than one acre if:  -Not in floodplain;  -Does not enter water table; and  -Does not cross property boundaries.</p> <p>No excavation within 20 feet of ROW or 10 feet of lot line.</p> <p><b>B.</b> Exempts dewatered bars within SBCFSA/</p>	<p>New code section.</p> <p>No excavation within 32' of lot lines.</p> <p>PEUs exempt but must provide reclamation plan &amp; comply with buffer zone requirements by 2026.</p>

	<p><b>C.</b> Exempts PEUs but by 2026 must:</p> <ul style="list-style-type: none"> <li>-Provide reclamation plan</li> <li>-Comply with buffer zone requirements</li> </ul>	<p>Snow River.</p> <p><b>C.</b> PEUs exempt but floodplain permit required within mapped special flood hazard area.</p>	
<p><b>KPB 21.29.020-Types of permits available</b></p>	<p><b>Counter permit</b></p> <ul style="list-style-type: none"> <li>-1 to 10 acres</li> <li>-No processing</li> <li>-No water table extraction</li> <li>-Only 21.29.050 conditions apply.</li> </ul> <p><b>Earth Materials Extraction CLUP</b></p> <ul style="list-style-type: none"> <li>-Activity disturbing more than 10 acres</li> <li>-No processing</li> <li>-No water table extraction</li> <li>-Only 21.29.050 conditions apply</li> </ul> <p><b>Earth Materials Processing CLUP</b></p> <ul style="list-style-type: none"> <li>-Required for all on-site processing, screening, or crushing</li> <li>-21.29.050 and 21.29.055 conditions apply</li> </ul> <p><b>Earth Materials Extraction within Water Table CLUP</b></p> <ul style="list-style-type: none"> <li>-Required for all earth materials extraction within water table</li> <li>-21.29.050 and 21.29.057 conditions apply</li> </ul>	<p>Counter permit and generic CLUP only.</p> <p>CLUP application requires all mandatory conditions and covers all uses.</p>	<p>Counter permit and three types of CLUPs.</p> <p>1 to 10 acres eligible for counter permit if no processing or water table extraction.</p> <p>Three different CLUP categories: earth materials extraction (more than ten acres), earth materials processing, and earth materials extraction within water table.</p> <p>Applicant may apply for one, two, or all three CLUP types.</p>
<p><b>KPB 21.29.030-Application procedure</b></p>	<p>Very similar to current procedure. Requires site map from professional surveyor and site plan</p>	<ul style="list-style-type: none"> <li>-Legal description</li> <li>-Life span</li> <li>-Buffer plan</li> <li>-Reclamation plan</li> </ul>	<p>Breaks apart site map (professional surveyor)</p>

	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.)
<b>KPB 21.29.040- Standards for sand, gravel or material sites</b>	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.
<b>KPB 21.29.045</b>	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		
<b>KPB 21.29.050</b>	<p><b>NINE MANDATORY CONDITIONS</b></p> <p><b>1. Buffers:</b> 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.</p> <p><b>2. Water source separation:</b> 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.</p> <p><b>3. Roads:</b> Operations impacting KPB roads must comply with 14.40 and subject to remedies in 14.40.</p> <p><b>4. Dust control:</b> Water or calcium chloride on haul</p>	<p><b>Buffers:</b> 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</p> <p><b>Water source separation:</b> 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.</p> <p><b>Roads:</b> Operations impacting KPB roads must comply with KPB 14.40.175 and subject to remedies in 14.40.</p>	<p>Allows flexibility to meet demands of a specific application vs. "one size fits all" of current code.</p> <p><b>Buffers:</b></p> <ul style="list-style-type: none"> <li>-Street-level noise and visual screening (as opposed to generic "noise and visual screening/impacts")</li> <li>-Decrease from 50' vegetation to 32'</li> <li>-Increase from 6' to 8' minimum</li> <li>-Decision-maker may waive if lot line is directly adjacent to another material site</li> </ul> <p><b>Water source separation:</b></p> <ul style="list-style-type: none"> <li>-Operations within water table governed by new section, 21.29.057 (see below) and require Material Extraction within Water Table CLUP</li> <li>-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</li> </ul>

	<p>roads within boundaries of material site</p> <p><b>5. Hours of operation:</b> 6 am-9m but decision-maker may waive for specific seasonal project. Waiver valid for six consecutive months.</p> <p><b>6. Groundwater elevation:</b> Requires groundwater monitoring/one well 4' below proposed excavation per ten acres of excavated area.</p> <p><b>7. Setback:</b> 250' from LOZD/school/senior center/child care facility/etc.</p> <p><b>8. Boundaries:</b> Must stake buffers, ROWs, easements at visible intervals by professional land surveyor. Stakes must be placed prior to permit issuance.</p> <p><b>9. Processing:</b> Must comply with conditions in new section 21.29.055 (Earth Materials Processing CLUP/see below.)</p> <p><b>SIX DISCRETIONARY CONDITIONS</b></p> <p><b>1. Setbacks/Buffer Areas:</b> Up to maximum of 100' if PC finds based on substantial evidence that increase is necessary for</p>	<p><b>Dust control:</b> Water or calcium chloride on haul roads within boundaries of material site</p> <p><b>Hours of operation:</b> Rock crushing equipment shall not be operated between 10 pm and 6 am.</p> <p><b>Groundwater elevation:</b> See below.</p> <p><b>Setback:</b> Not addressed.</p> <p><b>Boundaries:</b> Staked at sequentially visible intervals where boundaries are within 300' of excavation perimeter. Verification and staking by professional land surveyor.</p> <p><b>Processing:</b> See below.</p> <p><b>No provision for discretionary conditions.</b></p>	<p>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.</p> <p><b>Roads/Dust control:</b> Essentially the same.</p> <p><b>Hours of operation:</b> 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.</p> <p><b>Groundwater elevation:</b> Requires groundwater monitoring.</p> <p><b>Setback:</b> 250' from LOZD/school/senior center/child care facility/etc.</p> <p><b>Boundaries:</b> Stakes must be placed prior to permit issuance rather than time of application.</p> <p><b>Processing:</b> Requires compliance with new section 21.29.055 and Earth Materials Processing CLUP.</p>
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	<p>public health, welfare, and safety; potential for rolling berms instead.</p> <p><b>2. Road maintenance and repair:</b> Permittee may be required to maintain/repair damaged public roads; requires consultation with RSA Director.</p> <p><b>3. Ingress/egress:</b> Decision-maker may require driveway authorization.</p> <p><b>4. Dust suppression:</b> On public ROWs when natural precipitation inadequate to suppress dust generated by material site traffic.</p> <p><b>5. Surface water protection:</b> As specified in 21.29.030(A)(8)(a).</p> <p><b>6. Street-level screening:</b> Street-level visual screening, noise mitigation, &amp; lighting restrictions as appropriate for the surrounding area and in accordance with 21.29.040 standards set to protect against attractive nuisance issues.</p>		<p>Adds discretionary conditions:</p> <ul style="list-style-type: none"> <li>-Additional setbacks or rolling berms</li> <li>-Maintenance and repair of damaged public roads</li> <li>-Driveway authorization</li> <li>-Dust suppression on public ROWs</li> <li>-Surface water protections as set forth in 21.29.030(A)(8)(a)</li> <li>-Street-level screening as appropriate for surrounding area and to protect against attractive nuisances</li> </ul>
<b>KPB 21.29.055-Earth materials processing</b>	<p>In addition to mandatory conditions in 21.29.050(A).</p> <p><b>A.</b> Conditioning or processing equipment must be operated at</p>	<p>300' setback for conditioning or processing equipment.</p> <p>PC may waive or reduce in consideration of and in accordance with</p>	<p>New code section.</p> <p>PC may waive or reduce in consideration of and in accordance with existing uses of the</p>

	<p>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.</p> <p><b>B.</b> Hours of operation for processing equipment between 8am and 7pm or as PC determines.</p> <p>PC may also grant exceptions (not to exceed 120 days) for:</p> <ul style="list-style-type: none"> <li>-Emergencies</li> <li>-Good cause finding that increase serves public purpose and is not harmful to public health, safety, and general welfare</li> </ul> <p>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.</p>	existing uses of adjacent property at the time.	<p>"properties in the vicinity". Present code is "adjacent property".</p> <p>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.</p>
<b>KPB 21.29.057- Material extraction in water table</b>	<p>In addition to mandatory conditions in 21.29.050(A).</p> <p>Dewatering prohibited (21.29.050(A)(2)(b)).</p> <p><b>A.</b> Applicant must meet the following requirements prior to applying:</p>	<p>Excavation within 300' horizontal feet of water source may be permitted based on:</p> <ul style="list-style-type: none"> <li>-No negative impact to quantity of an aquifer serving existing water sources;</li> <li>-Minimum of three water monitoring tubes or well casings to determine flow direction, flow rate,</li> </ul>	<p>New code section.</p> <p>In addition to 21.29.050 conditions, sets forth additional requirements and conditions primarily to protect water quantity.</p> <p>Qualified professional must be able to characterize entire</p>

	<p>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.</p> <p>2. Under the supervision of a qualified professional, measurement of seasonal high-water table elevation, groundwater flow direction, hydraulic gradient and water table elevation.</p> <p>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.</p> <p>4. Report must be submitted with CLUP application. Subsection lists what must be included in the report.</p> <p><b>B. Must also include:</b></p> <p>1. Description of proposed extent and depth of material extraction beneath</p>	<p>and water elevation; and</p> <p>-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.</p> <p>-Operations shall not breach aquifer-confining layer. No extraction activities within 100 linear feet from waterbodies.</p> <p>Additional setback from lakes, rivers, anadromous streams and riparian wetlands may be required.</p> <p>-Permits may contain additional conditions addressing surface water diversion.</p>	<p>property permitted for excavation through sufficient monitoring wells and test pits.</p> <p>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.</p> <p>Conditions: -Implementation of monitoring and spill prevention/control/countermeasures plan;</p>
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	<p>seasonal high-water table.</p> <p>2. Report 21.29.057(A)(4) report, monitoring plan and spill prevention/control/countermeasures plan.</p> <p><b>C. Conditions</b></p> <p>1. Implement monitoring plan</p> <p>2. Implement spill prevention/control/countermeasures plan</p> <p>3. Monthly measurement (during active extraction) of groundwater flow direction, hydraulic gradient and groundwater table elevation</p> <p>4. Retain water elevation monitoring data for two years after completion of reclamation activities</p> <p>5. Annual report including water table elevation monitoring data from qualified professional</p> <p>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.</p> <p>7. Setbacks:</p>		<p>-Monthly measurement of groundwater and retention of groundwater data for two years after completion of reclamation activities;</p> <p>-Annual report from qualified professional;</p> <p>-No breach or extraction from a confined aquifer or a confining layer beneath a perched aquifer; and</p> <p>-Setbacks from existing drinking water sources.</p>
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	<p>-500' from nearest down-gradient drinking water source</p> <p>-350' from nearest cross-gradient drinking water source</p> <p>-200' from nearest up-gradient drinking water source</p> <p>-Do not apply to drinking water sources constructed after permit issued</p>		
<b>KPB 21.29.060 -Reclamation plan</b>	<p><b>A.</b> Reclamation with site plan required. 5-year reclamation plan must be submitted with permit renewal request.</p> <p><b>B.</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.</p> <p><b>C.</b> Measures listed must be considered as part of every reclamation plan, 6 reclamation measures including ponding and protection against public nuisance.</p> <p><b>D.</b> Plan must list total acreage to be reclaimed.</p>	<p><b>A.</b> Reclamation Plan required.</p> <p><b>B.</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.</p> <p><b>C.</b> Measures listed must be considered as part of every reclamation plan, 6 reclamation measures including ponding.</p> <p><b>D.</b> Plan must list total acreage to be reclaimed each year, a list of equipment and a time schedule for reclamation measures.</p>	<p>"May" rather than "shall" revegetate.</p> <p>Bonding required.</p> <p>Plan survives permit termination and must list total acreage to be reclaimed.</p> <p>Protection against public nuisance.</p>

	<b>E.</b> Close-out – reclamation survives permit expiration, termination or revocation.		
<b>KPB 21.29.065 -Effect of permit denial</b>	<p><b>A.</b> Applicant denied counter permit cannot reapply within same calendar year w/out new evidence or circumstances.</p> <p><b>B.</b> Applicant denied CLUP permit cannot reapply within same calendar year w/out new evidence or circumstances.</p> <p><b>C.</b> Applicant bears burden of proof.</p>	N/A	An applicant cannot immediately reapply for a permit after denial.
<b>KPB 21.29.070 -Permit renewal, modification and revocation</b>	<p><b>A.</b> Renewal by application every 5 years.</p> <p><b>B.</b> Administrative approval if compliance with all conditions, no modification and no violation in prior 2 years.</p> <p><b>C.</b> 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.</p>	<p><b>A.</b> Must request permit extension every 5 years, 30 days prior to expiration.</p> <p><b>B.</b> If no modification to operations or conditions proposed, a permit extension certificate may be issued by planning director.</p> <p><b>C.</b> 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.</p> <p><b>D.</b> Modification processed per</p>	<p>Renewal application, not request in writing.</p> <p>Possibility for public hearing on renewal and additional discretionary conditions on renewal.</p>

	<p><b>D.</b> Modifications processed per KPB 21.29.030 -.050</p> <p><b>E.</b> Renewal fee is same as original permit fee.</p> <p><b>F.</b> Failure to apply for renewal = permit expiration.</p> <p><b>G.</b> Permits revoked per KPB 21.50.</p>	<p>KPB 21.29.030-.050.</p> <p><b>E.</b> 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.</p> <p><b>F.</b> Failure to apply for renewal = permit expiration.</p> <p><b>G.</b> Permits revoked per KPB 21.50.</p>	
<b>KPB 21.29.080 -Permit Close-out</b>	<p>Requires permittee to request close-out of permit and verification of reclamation compliance.</p> <p>Bonding released at close-out.</p>	<p>Current code section is titled "Permit Termination" and provides for a termination document and verification of site reclamation.</p>	<p>Terminology change from permit "termination" to "close-out". Explicit that reclamation requirement survives permit expiration or revocation &amp; that bonds are released upon close-out.</p>
<b>KPB 21.29.100 -Recordation</b>	<p>Provides for recordation of permits, etc. issued under KPB 21.29. Owner/operator responsible for cost.</p>	<p>Similar recordation requirement.</p>	<p>Owner/operator responsible for recording costs.</p>
<b>KPB 21.29.110 -Violations</b>	<p>Violations governed by KPB 21.50.</p>	<p>Same but also has subsection (B) which provides for bonding if owner/operator has 3 violations within a 3-year period.</p>	<p>Violations governed by KPB 21.50 remain unchanged. No subsection B related to bonding requirement if there are 3 violations in 3 year period.</p>
<b>KPB 21.29.115 -Permit transfers</b>	<p>Planning director approves or disapproves permit transfers. Permits do not run with the land.</p>	<p>N/A</p>	<p>New section of code.</p>

<p><b>KPB 21.29.120</b>  <b>-Prior-existing</b>  <b>uses</b></p>	<p><b>A.</b> Determination – mirrors process under KPB 21.44 (LOZD) for nonconforming-use determination</p> <p><b>B.</b> Director provides notice of application and issues decision. Decision can be appealed to the Planning Commission.</p> <p><b>C.</b> Establishes 365-day period for abandonment.</p> <p><b>D.</b> Prohibits increasing, intensifying, expanding or moving the use.</p> <p><b>E.</b> Establishes standards to guide decision-making process.</p> <p><b>F.</b> Requires PEU compliance with KPB 21.29 reclamation plan and hours of operation by January 1, 2026.</p> <p><b>G.</b> 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.</p>	<p><b>A.</b> 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.</p> <p><b>B.</b> Must have applied to be registered as a PEU prior to January 1, 2001.</p> <p><b>C.</b> 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.</p>	<p>By 1/1/2026, PEUs required to come into compliance with:  -Reclamation requirements;  -Hours of operation; &amp;  -Buffer area.</p> <p>365 period of nonuse/  no operations =  Abandonment</p>
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# O2022-36

## Material site permitting process overview

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# Section 1

## KPB 21.25.050

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- Increased review time of application for permit from 21 days to 30 days.

# Section 2

## KPB 21.25.060

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- 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

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- 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)

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- 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

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- 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

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- 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

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- 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.

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- 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

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- 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

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- 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

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- 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

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- In lieu of current exhaustive conditions in borough code that apply as a “one size fits all” this section establishes 2 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

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- 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

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- 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

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- 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

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- 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

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- 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

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- 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

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- 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

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- 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

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## INTRODUCTION



# TAKINGS OVERVIEW

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## BACKGROUND PRINCIPLES

# FEDERAL CONSTITUTION'S FIFTH AMENDMENT

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“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

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- “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

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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”

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- 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

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- 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

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- “**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*

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- 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.*

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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?

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- *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

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- 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

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CONCLUSION/QUESTIONS



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

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**From:** Katharine M. Tongue <[kmtongue@icloud.com](mailto:kmtongue@icloud.com)>  
**Sent:** Tuesday, August 23, 2022 5:51 PM  
**To:** Blankenship, Johni <[JBlankenship@kpb.us](mailto: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](mailto:kmtongue@icloud.com)>  
**Date:** August 12, 2022 at 12:20:13 PM AKDT  
**To:** [bjohnson@kpb.us](mailto:bjohnson@kpb.us), [lchesley@kpb.us](mailto:lchesley@kpb.us)  
**Cc:** John & Katie <[jbandkt@gmail.com](mailto: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



**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.

Page 1 of 2



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,

A handwritten signature in black ink, appearing to read "Gina DeBardelaben".

Gina DeBardelaben, P.E.  
Vice President

**From:** Blankenship, Johni  
**To:** Warner, Avery  
**Subject:** FW: <EXTERNAL-SENDER>Material site 2022-36  
**Date:** Thursday, September 1, 2022 1:25:43 PM

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## Laydown public comment

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**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.



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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

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[For laydown packet](#)

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**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

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### Laydown public comment

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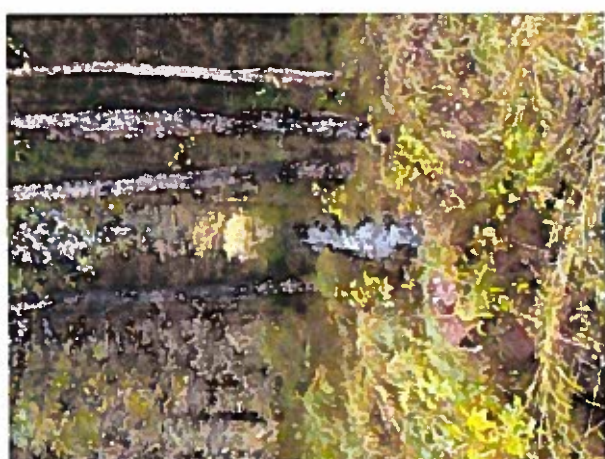
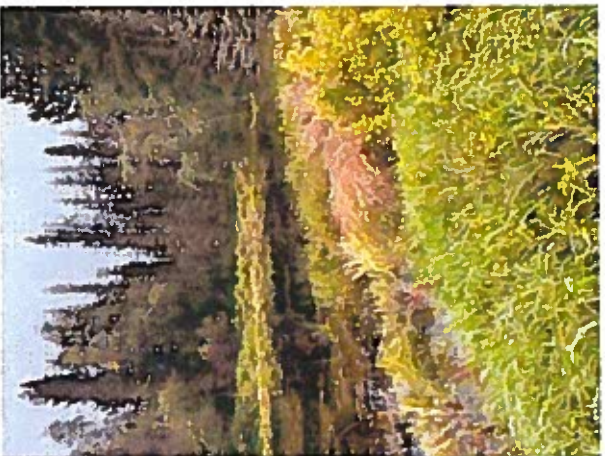
**From:** DR Lee <[dr.lee@live.com](mailto:dr.lee@live.com)>  
**Sent:** Thursday, September 1, 2022 12:09 PM  
**To:** G\_Notify\_AssemblyClerk <[G\\_Notify\\_AssemblyClerk@kpb.us](mailto:G_Notify_AssemblyClerk@kpb.us)>  
**Subject:** <EXTERNAL-SENDER>Fwd: Gravel pit in back of 50-51 Greenridge Drive causing flooding and eroding my property. Ordinance 2022-36

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.

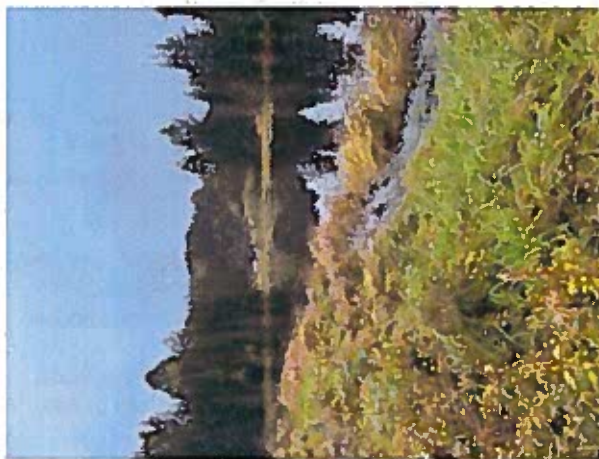
Sent from my iPhone

Begin forwarded message:

**From:** DR Lee <[dr.lee@live.com](mailto:dr.lee@live.com)>  
**Date:** September 1, 2022 at 12:07:34 PM AKDT  
**To:** [assemblyclerk@kpb.com](mailto:assemblyclerk@kpb.com)  
**Cc:** Ohare Russ <[ro\\_ua@live.com](mailto:ro_ua@live.com)>, Soldotna Neighbors Elena Staab <[elena-joy@hotmail.com](mailto: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). 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....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.

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# **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



## **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 health 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](mailto:jim@platteriverwatershed.org)



## Crystalline Silica Dust — The Invisible Killer

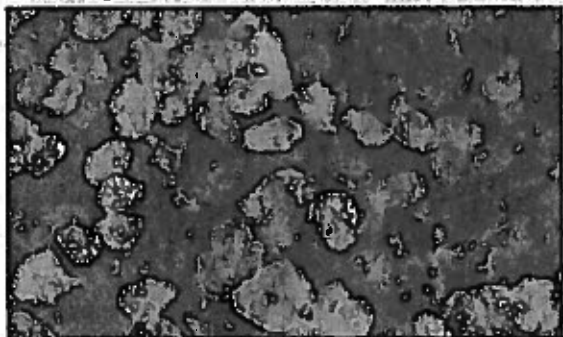
### Sand's Tiny Secrets — Size, Material, & Shape

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<sub>2</sub>), 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.

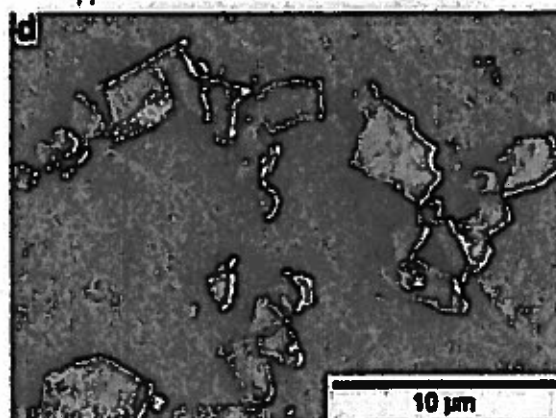
Most sand with which we are familiar is heavily weathered. It has the familiar shape of

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!<sup>1</sup>

### 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.<sup>2</sup>

*"[Those inhaling] these very small crystalline silica particles are at increased risk of developing serious silica-related diseases."*

<sup>1</sup> 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

<sup>2</sup> *Respirable Crystalline Silica*, Occupational Safety and Health Administration, United States Department of Labor, [osha.gov/dsg/topics/silicacrystalline/](http://osha.gov/dsg/topics/silicacrystalline/)

## Crystalline Silica Dust — The Invisible Killer

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.<sup>3</sup>*

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!<sup>4</sup> Why does the MAA promote this you ask?

*"To increase workers' awareness of the serious 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.<sup>5</sup>

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.

<sup>3</sup> Silica safety urged in QLD, OHS Career, March 21, 2017, [ohscareer.com.au](http://ohscareer.com.au)

<sup>4</sup> *Protecting and Promoting Your Interests*, Michigan Aggregate Association, November 16, 2019 See Appendix B

<sup>5</sup> A. Voss and S. Alfano, *The Body's Defenses Against Breathing Dirty Air*, ProRemodler, June 23, 2016

### Crystalline Silica Dust — The Invisible Killer

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.<sup>6</sup>

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.<sup>7</sup> 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.<sup>8</sup>

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.<sup>9</sup>

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.<sup>10</sup>

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

<sup>6</sup> J. Warren, *Silica Monitoring*, Public Lab, publiclab.org, February 22, 2018

<sup>7</sup> C.A. Epstein, *Everything You Need to Know About OSHA's Respirable Crystalline Silica Final Rule*, February 2, 2018, oshaonline.com

<sup>8</sup> *Crystalline Silica Exposure*, MIOSHA Fact Sheet, CSH Fact Sheet - #109, Revised October 12, 2017

<sup>9</sup> *Silica Dust Particle Size Causes Problems*, BossTek, 2019, bosstek.com/silica-dust-compliance/silica-particle-size-behavior

<sup>10</sup> *How Far Can Respirable dust Actually Travel?*, Insider News, NeSilex, September 24, 2019



## Crystalline Silica Dust — The Invisible Killer

### 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.

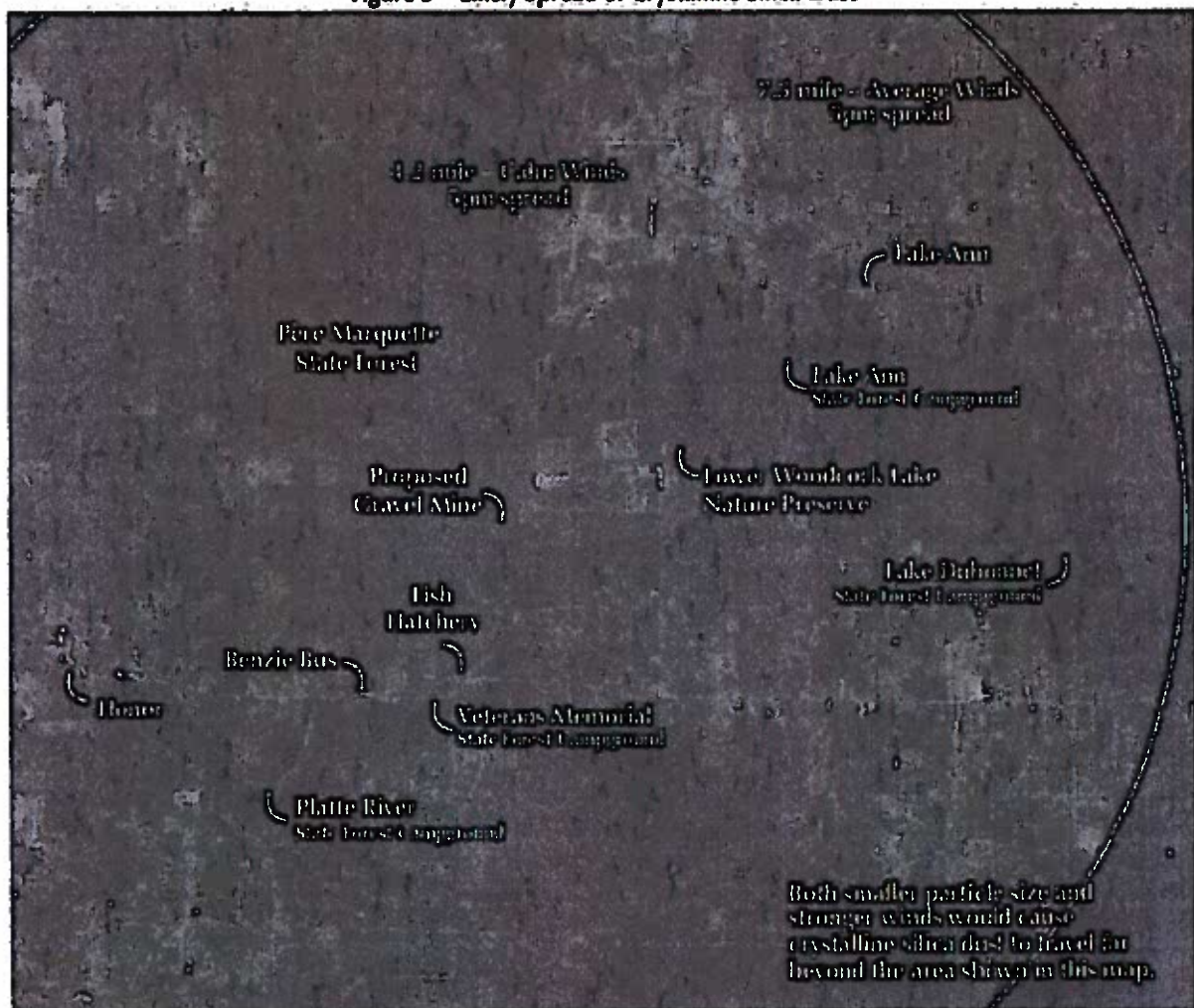
This area's Average windspeed over the past three years for May – October, the average Maximum sustained winds, and average Gusts are shown in Figure 4. The miles that silica dust can be spread relates to particulate size.<sup>11</sup>

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



<sup>11</sup> While wind data was pulled from the Weather Underground, all data originates from the National Centers for Environmental Information, National Oceanic and Atmospheric Administration.

### Crystalline Silica Dust — The Invisible Killer

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 serious 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.



## Crystalline Silica Dust — The Invisible Killer

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<sup>12</sup>

*"...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 severe 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 from 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 HJPC 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.

<sup>12</sup> Excerpts from a private Memorandum from Dr. Sandra McCoy, December 3, 2019, full memorandum in Appendix D

### Crystalline Silica Dust — The Invisible Killer

**Figure 7 – Bohne Road Gravel Mine, Grass Lake Township, Michigan**





### 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 mileage 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 OSHA, 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.



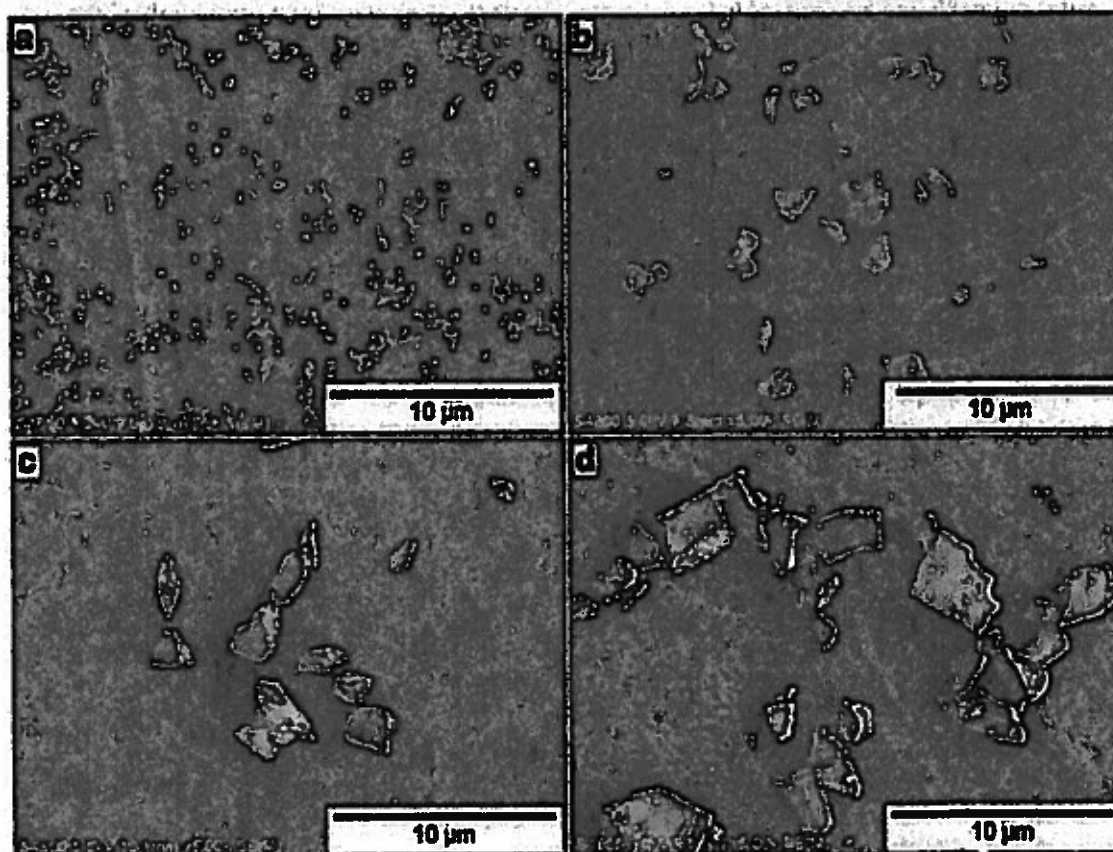
## Appendix A

**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  $0.01\text{ }\mu\text{m}$ ) to 'course' (up to  $7\text{ }\mu\text{m}$ ). For reference,  $10\text{ }\mu\text{m}$  is the typical width of a human hair, represented here as the graphic insert of each image.

At sizes of  $5\text{ }\mu\text{m}$  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



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## OSHA Approved Silica Training



MAA and MTA has partnered with Wayne State University to offer Respirable Crystalline Silica training.

This program was developed through 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 50), 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 12, 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.mallchimp.com/d250bd5a823dc5dd5e1625052/files/76fc3d95-753e-44ad-9b3a-b1ae46de08bf/5-1\\_Silica\\_Training\\_Marketing\\_Flyer.pdf](https://gallery.mallchimp.com/d250bd5a823dc5dd5e1625052/files/76fc3d95-753e-44ad-9b3a-b1ae46de08bf/5-1_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 CRISTALLINE 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. Usman, PhD, PE**  
e-mail : [musmen@eng.wayne.edu](mailto:musmen@eng.wayne.edu)  
Phone: (313) 577-3608

**Emrah Kazan, PhD**  
e-mail: [ekazan@wayne.edu](mailto: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

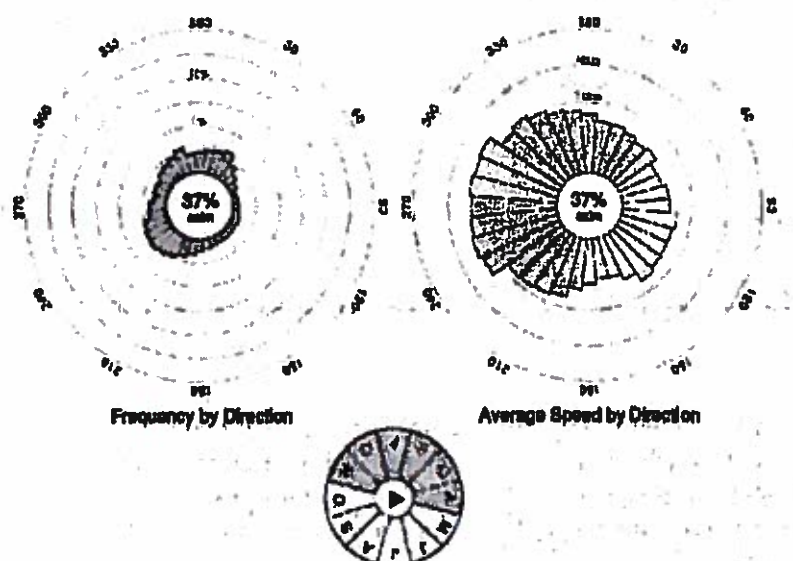
**Opinion Survey**

- We would like to hear your opinion and feedback on the training

This material was produced under a grant (SH-05039-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

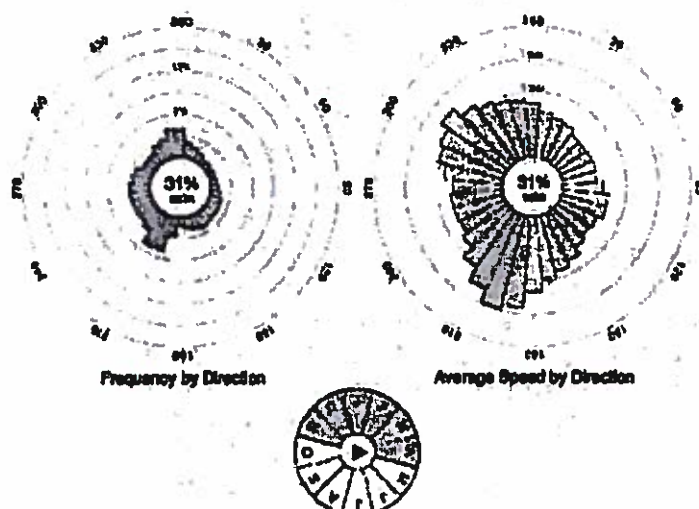


44.7430, -85.585 WeatherSpook Wunderground VFRMap FlightFinder NavMonitor

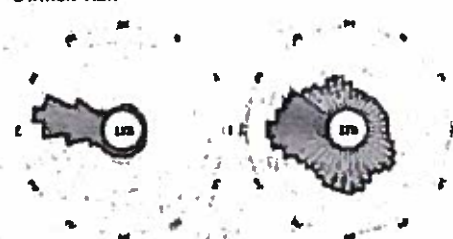
A diagram of the prevailing winds at KTVC: Cherry Capital Airport. The blue diagram at left is a wind rose; the bar length shows the frequency of winds from each direction. In the red diagram at right the bar length shows the average speed of winds when they come from that direction. For more information, see about this site.

WindHistory. Copyright © 2011 Doodah LLC, LLC. All rights reserved.

## KFKS: Frankfort, Frankfort Dow Memorial Field Airport



## STATION VIEW



The station view shows the prevailing winds for a single weather station. Above is an example image for KSPC, 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 color is proportional to the average speed. At KSPC the wind is pretty much always from the west. The most common direction is 280°, 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 color is proportional to frequency. At KSPC 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 tactical data. In both diagrams the percentage in the middle indicates how often the winds are less than a break (15kts at KSPC). There are links on the station page for further information. WeatherSpook 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 extendor 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 2000 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 [scopemaster@windhistory.com](mailto:scopemaster@windhistory.com) with any thoughts you have. Some planned enhancements include showing winds for specific months and showing more detailed histograms.

SOURCE: Weather Underground [wunderground.com](http://wunderground.com) reported data from NOAA (National Centers for Environmental Information) National Oceanic and Atmospheric Administration

## 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 aquifer 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 UpM 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."



## Appendix D (p3)

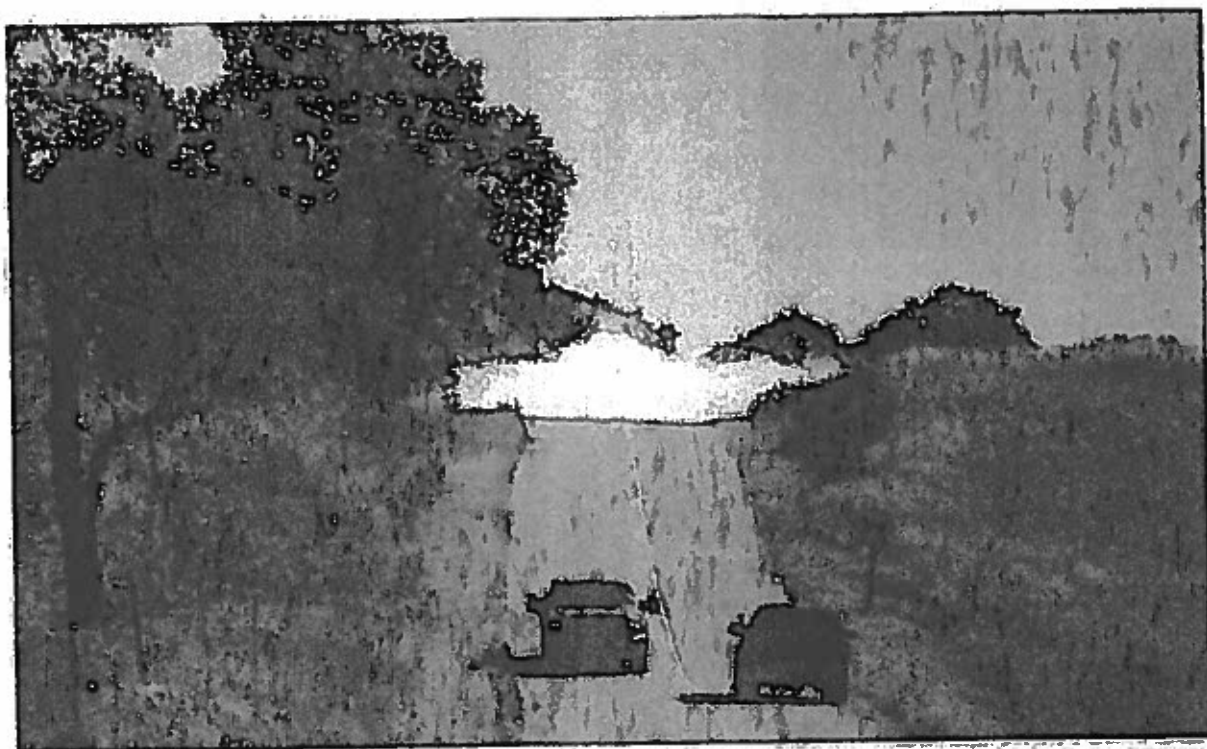
"The site alone is appalling with the noise, dust, contamination of the stream near the gravel pit, the pond, wildlife absent and natural resources. Why is this gravel pit still in operation, from failing to comply with the agreement from 21 March 2018?" "Why should the residents be subjected to all 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."

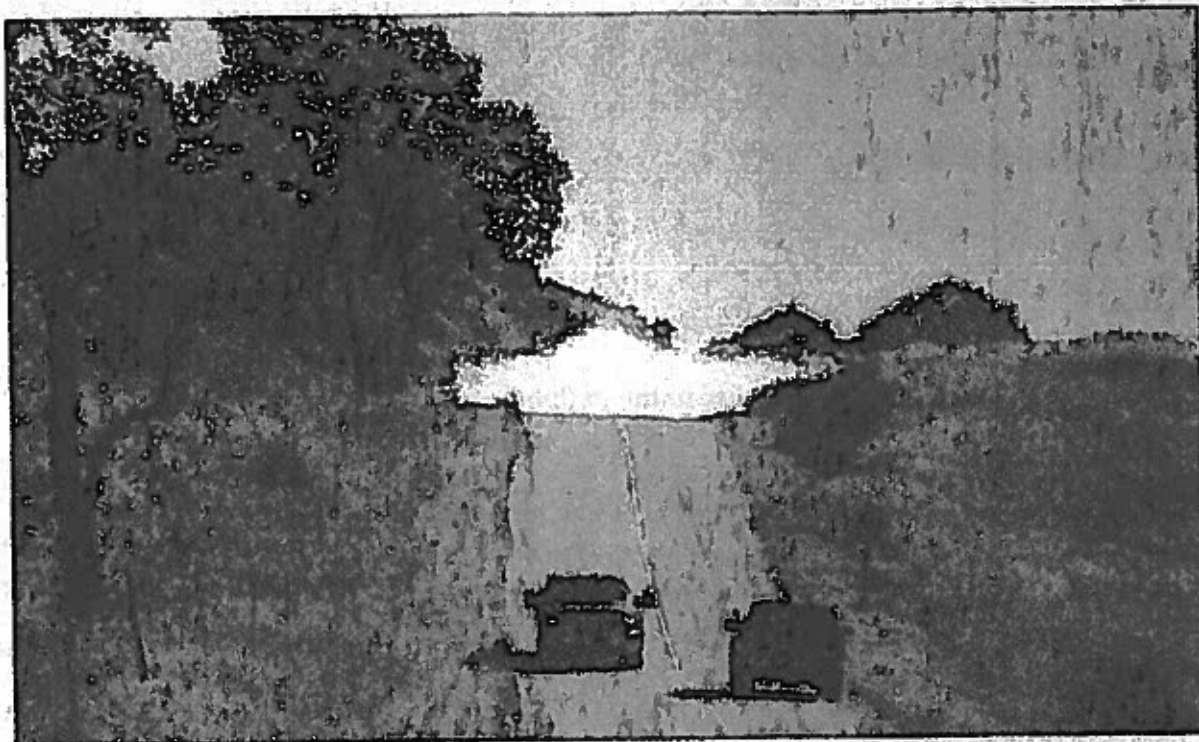
I think the issue is best summed up by one Bohne Road resident in a letter to the Township, urging them not to renew the mine permit:

"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."

*A. Mcloy*



## Appendix D (p4)





[Home](#) → [Medical Encyclopedia](#) → Silicosis

URL of this page: [//medlineplus.gov/ency/article/000134.htm](http://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

3

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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National Institutes of Health

**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](#)

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## Public comment

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**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

1 of 11

## **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;

\*\*\* Justification is 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, John](#)  
**To:** [Warner, Avery](#)  
**Subject:** FW: New Public Comment to Assembly Members  
**Date:** Tuesday, September 6, 2022 6:10:37 PM

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**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](mailto: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 public, 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

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## Public comment on Material Site Ordinance

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**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 Denver  
PO Box 121  
Anchor Point, AK. 99556  
(425) 449-3540

## Warner, Avery

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**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

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**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

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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

**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

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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

**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

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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

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**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

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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



**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

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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

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-----Original Message-----

From: [toni.swearingen@gmail.com](mailto:toni.swearingen@gmail.com) <[toni.swearingen@gmail.com](mailto:toni.swearingen@gmail.com)>  
Sent: Friday, October 14, 2022 10:40 AM  
To: G\_Notify\_AssemblyClerk <[G\\_Notify\\_AssemblyClerk@kpb.us](mailto:G_Notify_AssemblyClerk@kpb.us)>  
Subject: <EXTERNAL-SENDER>Kenai Peninsula Borough Material Site Assembly Conditional Land Use

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To Assembly Clerk:

I would like to 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 the quality of our water. Currently we have very clear and delightful water. We want to 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

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## Public comment

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**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

**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

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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 ordinance'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

**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

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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

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 ordinance'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

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**From:** Blankenship, Johni  
**Sent:** Monday, October 24, 2022 11:44 AM  
**To:** Warner, Avery  
**Subject:** FW: <EXTERNAL-SENDER>gravel pit rules

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**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 possible 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 regarding the gravel pit at the top of China Poot Street.

Dan Anderson  
41140 China Poot Street  
Homer, Alaska 99603  
(414)788-5197

**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

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 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













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.

Addressee  
Date  
Page 2 of 2

Thank you for your consideration and the opportunity to provide comments on  
PO 2022-36.

Cook Inlet Region, Inc.

A handwritten signature in dark ink, appearing to read "S. Settle", written in a cursive style.

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](mailto: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**

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**From:** Blankenship, Johni  
**Sent:** Monday, October 24, 2022 1:20 PM  
**To:** Warner, Avery  
**Subject:** FW: <EXTERNAL-SENDER>Re: proposed gravel pit ordnance changes

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**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](mailto: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 ordinance'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

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**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 pits 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

<b>Name</b>
Joshua Ross
<b>Email Address</b>
rocky@legacyak.net
<b>Subject</b>
O2022-36
<b>Message</b>
<p>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.</p> <p>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.</p> <p>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.</p>

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

<b>Name</b>
Mark Tornai
<b>Email Address</b>
mdtornai@gmail.com
<b>Subject</b>
Amendments to material site ordinance
<b>Message</b>
<p>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.</p> <p>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.</p>

## Warner, Avery

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**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

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 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 its 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](mailto: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

---

**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](mailto: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. 4<sup>th</sup> 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

---

**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 28 2022**

TO: Assembly Clerk  
Soldotna, Ak.

**Borough Clerk's Office  
Kenai Peninsula Borough**

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  
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,

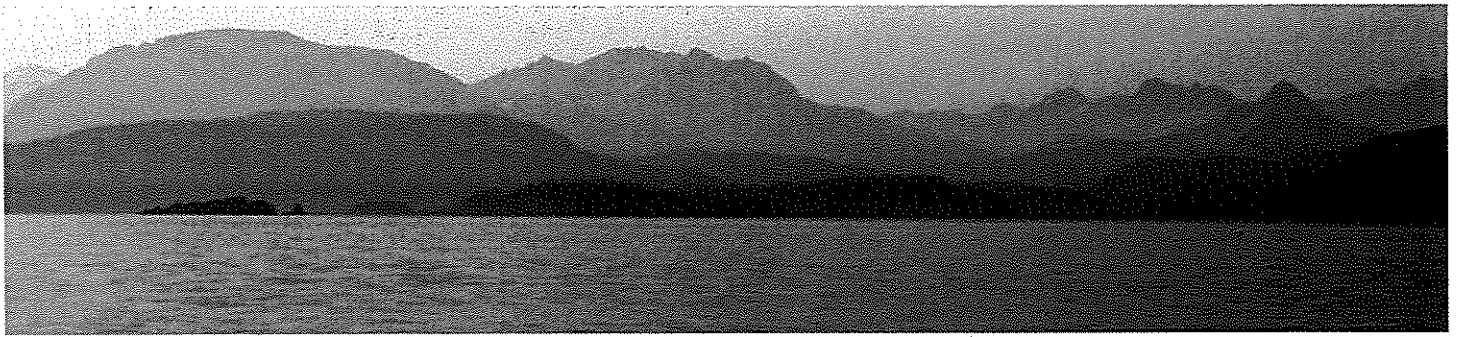
Attached is Resolution 200-3 passed by The Kachemak Bay State Parks and Kachemak Bay State Wilderness Park Citizens Advisory Board, (KBSP & KBWP CAB) on November 9, 2022 concerning updating Ordinance 2022-36, Amending KPB Chapter 21.25 and KPB Chapter 21.29 Regarding Conditional Land Use Permits and 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](mailto: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

Kachemak 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

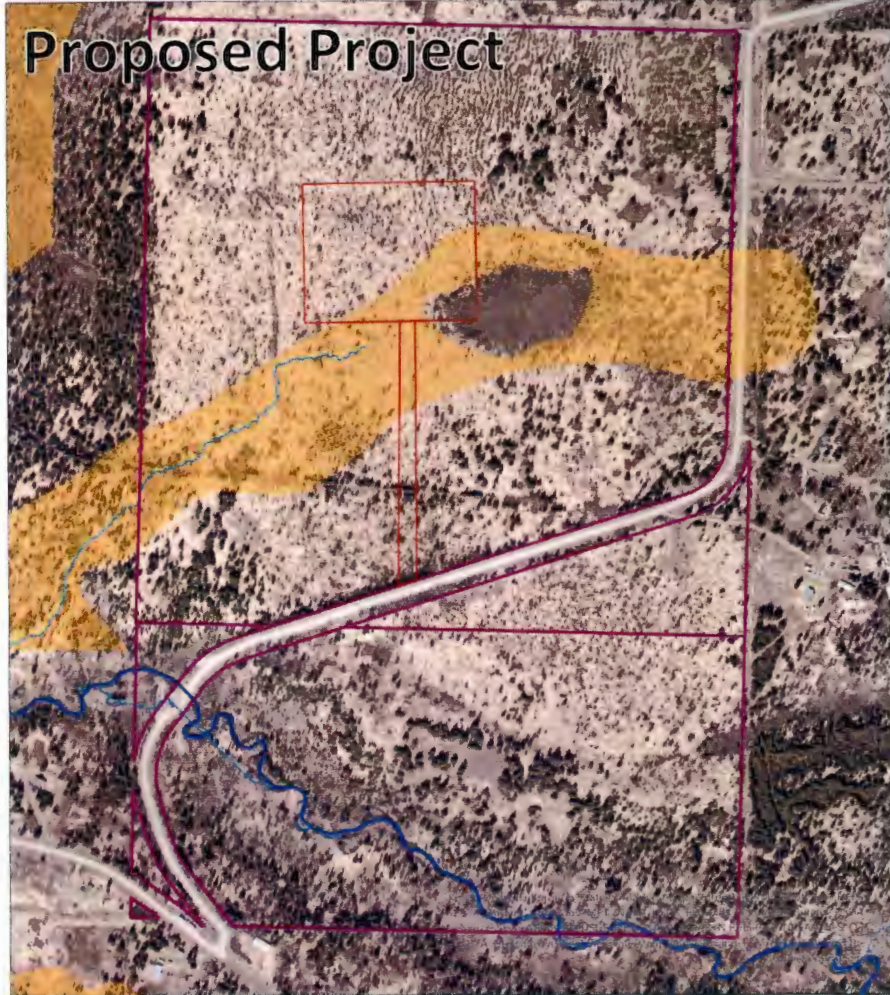
**Your Email:** [gs2aa@yahoo.com](mailto:gs2aa@yahoo.com)

**Subject:** 2022-057

**Message:**

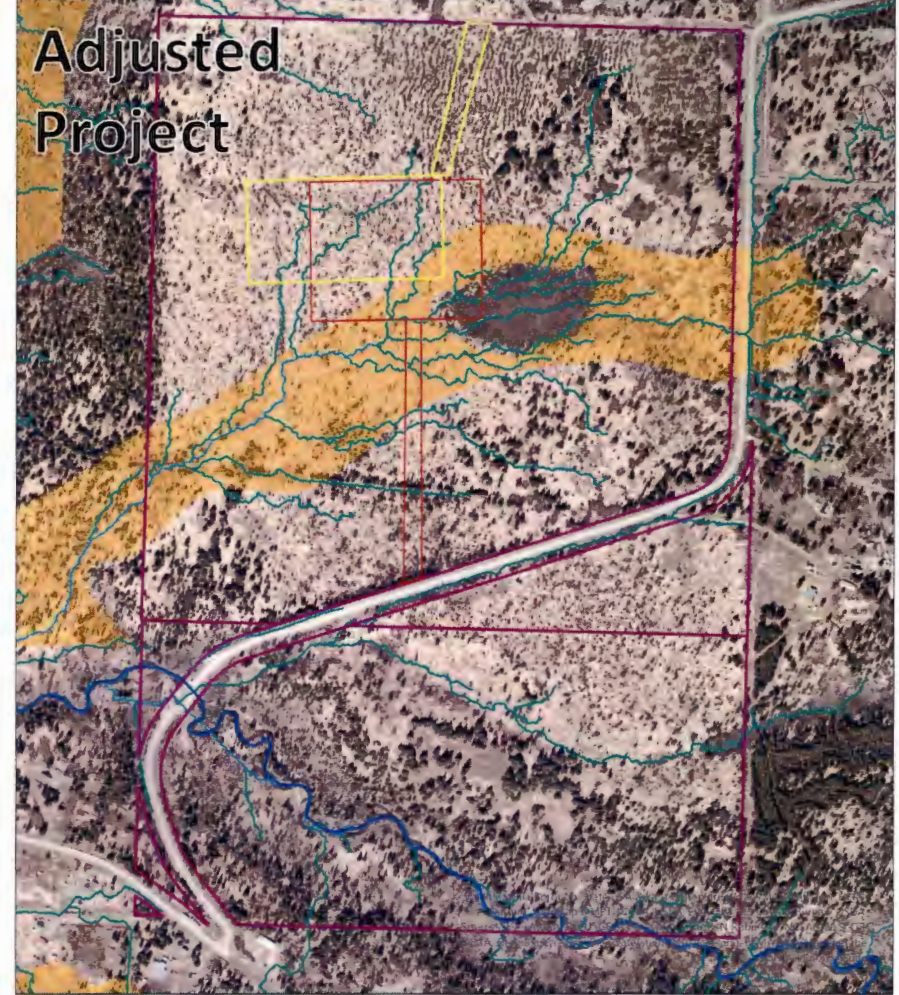
We would like to express our support for this resolution not only because the state should not go into competition with existing private businesses but also because of the the negative impact on the neighborhood ( Coal Creek Subdivision) that a state take out would have. We are worried about extra traffic, 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.





0 125 250 500 Meters

- Proposed Footprint
- KPB Parcel
- Anadromous Streams
- Predicted Streams
- Peatland



0 125 250 500 Meters

- Adjusted Footprint
- Proposed Footprint
- KPB Parcel
- Anadromous Streams
- Predicted Streams
- Flowpaths
- Peatland





Developing a peatland carbon project for the Kenai Peninsula

December 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 of involvement with this.

Drew Scalzi wrote the first one, which the Gravel folks hated, 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, Alaska 99603

**Subject:** FW: <EXTERNAL-SENDER>Gravel Pit Ordinance 2022-36

---

**From:** Kathryn Carssow <[kcarssow@live.com](mailto:kcarssow@live.com)>  
**Sent:** Friday, December 9, 2022 3:21 PM  
**To:** G\_Notify\_AssemblyClerk <[G\\_Notify\\_AssemblyClerk@kpb.us](mailto: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





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

**Subject:** FW: <EXTERNAL-SENDER>Ordinance 2022-36 Commentss

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**From:** Harold Shepherd <[halshepherdwpc@gmail.com](mailto:halshepherdwpc@gmail.com)>  
**Sent:** Monday, December 12, 2022 12:00 PM  
**To:** G\_Notify\_AssemblyClerk <[G\\_Notify\\_AssemblyClerk@kpb.us](mailto:G_Notify_AssemblyClerk@kpb.us)>  
**Subject:** <EXTERNAL-SENDER>Ordinance 2022-36 Commentss

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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 be 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 its 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

[halshpherdwpc@gmail.com](mailto:halshpherdwpc@gmail.com)

[www.waterpolicyconsulting.com](http://www.waterpolicyconsulting.com)

*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.

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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.

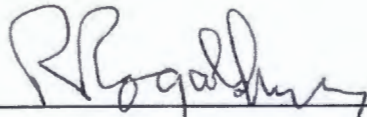
**Buffer Zones.** The Board believes the proposed 32 foot buffer from edge of the applicant's property boundary to adjacent properties should be increased to 100 feet.

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



**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

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**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](mailto:katherine@homerswcd.org)>  
**Sent:** Tuesday, December 13, 2022 9:44 AM  
**To:** G\_Notify\_AssemblyClerk <[G\\_Notify\\_AssemblyClerk@kpb.us](mailto:G_Notify_AssemblyClerk@kpb.us)>  
**Cc:** KP-CISMA <[kenaipeninsula.invasives@gmail.com](mailto: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

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 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](http://www.homerswcd.org)  
432 E. Pioneer Ave  
Homer, AK 99603  
(907) 205-0235



## Warner, Avery

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**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](mailto: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

## 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

E.R. BAUER AND D.R. BABICH

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

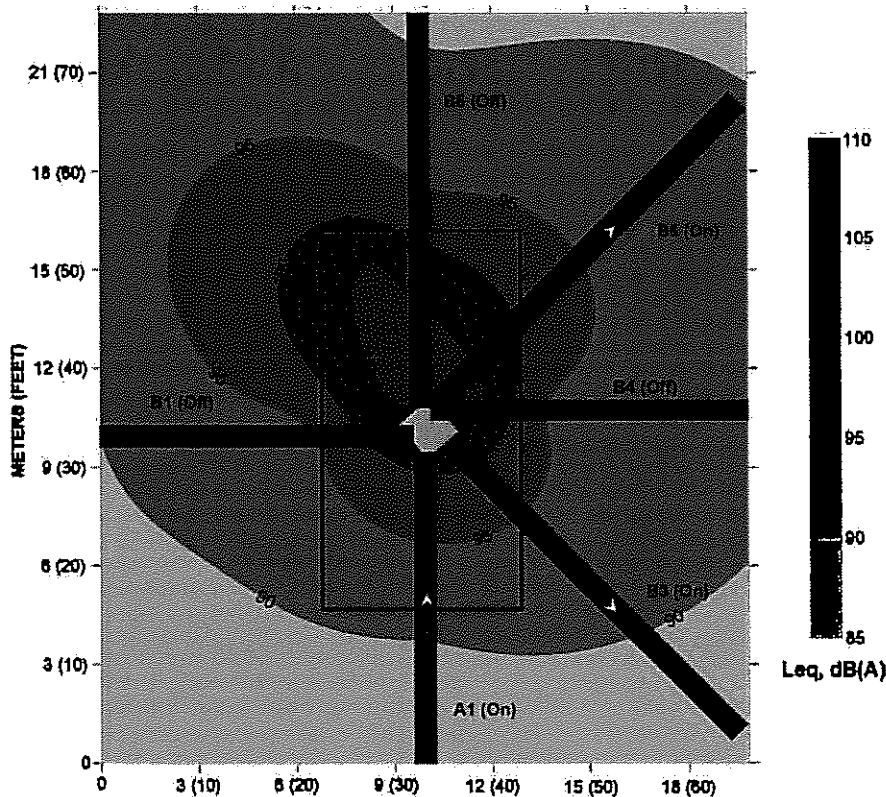
Sound levels in the mines and processing facilities were measured using a Quest Model 2900 sound level meter (SLM) and Brüel & Kjær 2260 Investigator. The instruments were mounted side by side on a tripod, with the microphones 1.5 m (5 ft) from the floor (approximately ear height), angled at 70° from 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

## 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.*

**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

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.

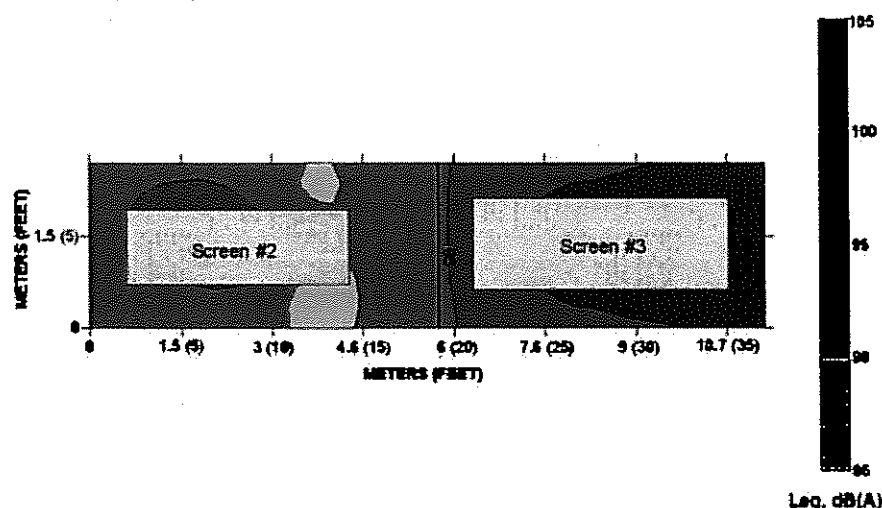
**Equipment and plant sound levels:** Table 1 lists the range of sound levels measured around various processing equipment and indicates that the sound levels varied greatly throughout the plants. The highest sound levels were recorded at the primary screening tower, surge tunnel, secondary crusher, 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

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

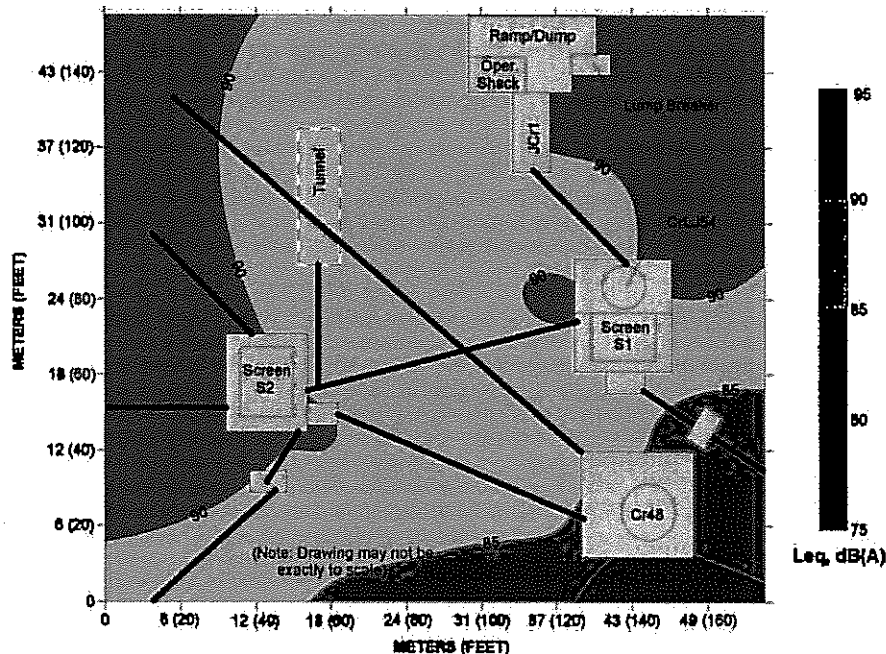
buildings and at the primary crusher. Table 3 lists the results of the sound-level measurements around the stationary equipment and indicates that the sound levels varied greatly throughout the plants. The locations where high sound levels (greater than 90 dB(A)) were recorded included the screens and 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 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 out-

side 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 station-

ary 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.

**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 em-

**Table 4**

**Worker exposure, case study No. 2.**

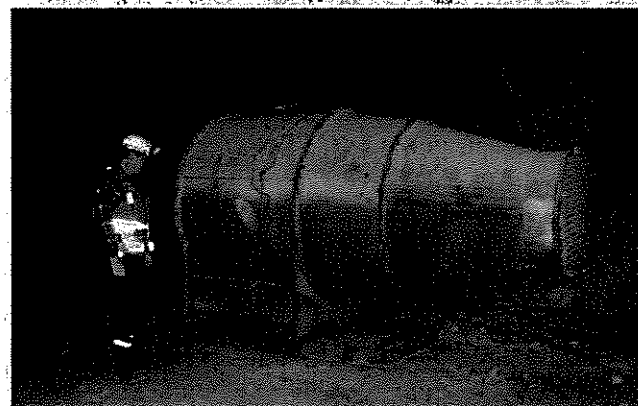
Occupation	Number of recorded doses	Worker range MSHA PEL dose, %	Outside cab range MSHA PEL dose, %
Haul truck operator (65,66,68)	3	3.0-98.0	111.0-396.1
FEL operator (27,32,34)	3	0.4-28.3	33.0-284.8
Primary crusher operator (B J Cr1)	1	2.0	NA
Bin truck operator (7)	1	10.2	22.2

NA = not applicable

ployees. 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 CrLJ55, 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.**

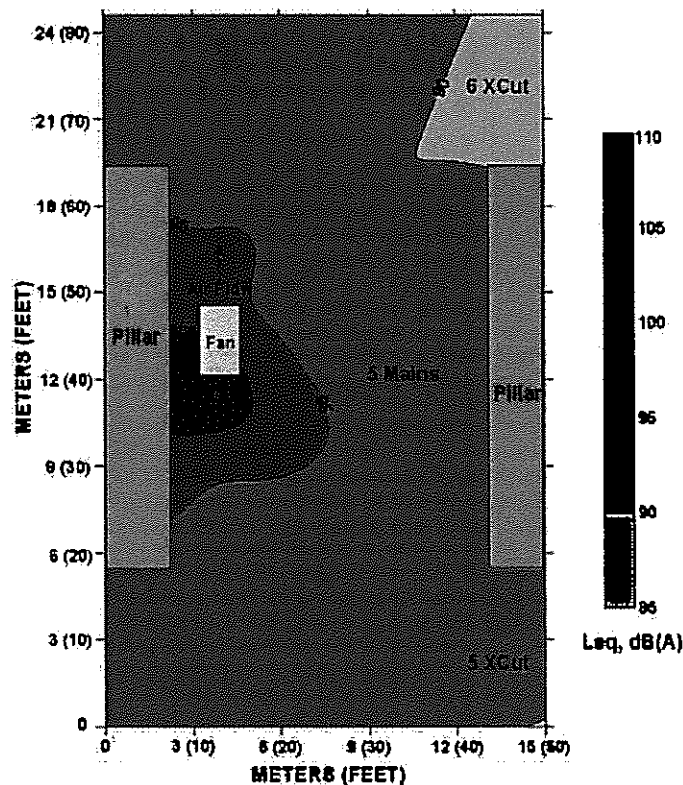
Occupation	Number of recorded doses	Worker range MSHA PEL dose, %	Outside cab range MSHA PEL dose, %
Haul truck operator (69)	1	11.7	118.2
FEL operator (24, 25)	2	13.5-25.4	154.4-159.0
Primary crusher operator (P J Cr1)	1	20.4	NA

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 8 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.

### 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-

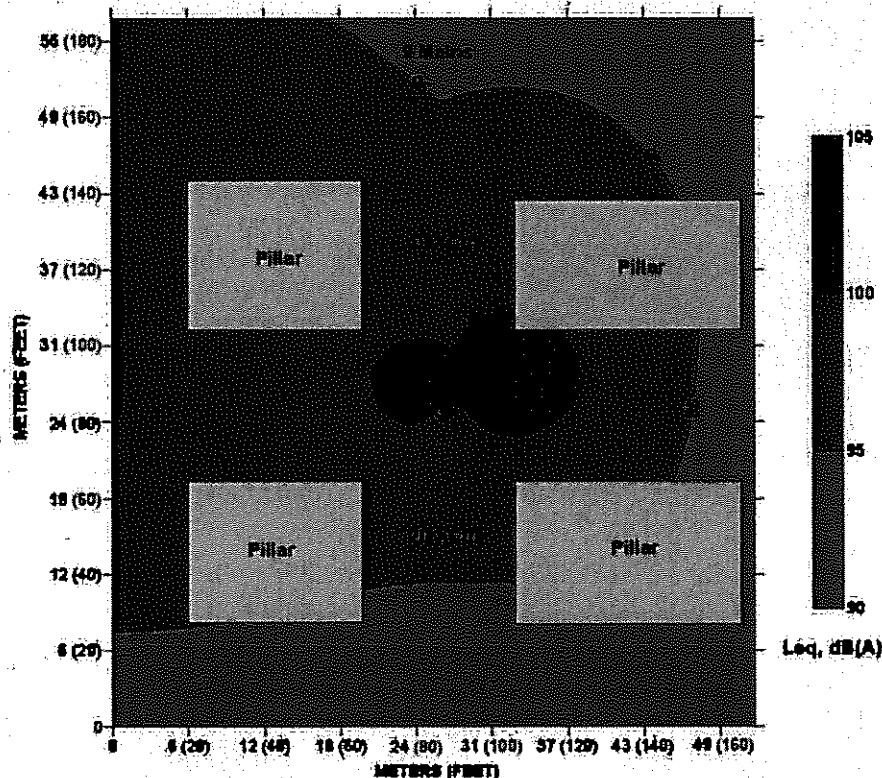
**FIGURE 6**

**Tamrock floor drill.**



**FIGURE 7**

**Sound profile plot for Tamrock floor drill.**



**Table 8**

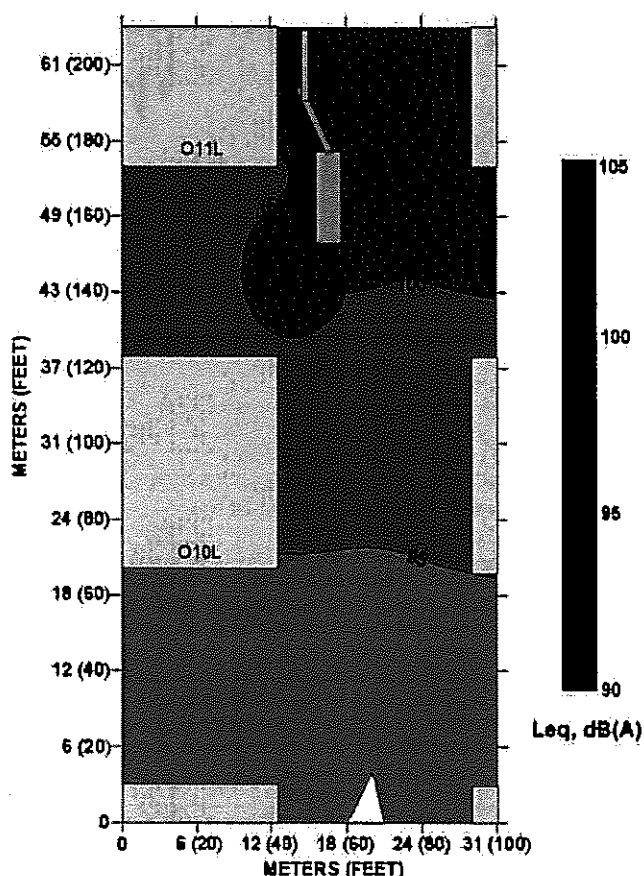
**Worker exposure, case studies No. 4 and No. 5.**

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, underground 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.

## 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 indicated 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

- Bauer, E.R., and Babich, D.R., 2006, "Limestone mining: Is it noisy or not?" *Mining Engineering*, Vol. 58, No. 10, October, pp. 37-42.
- 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>.

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

tion, <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.

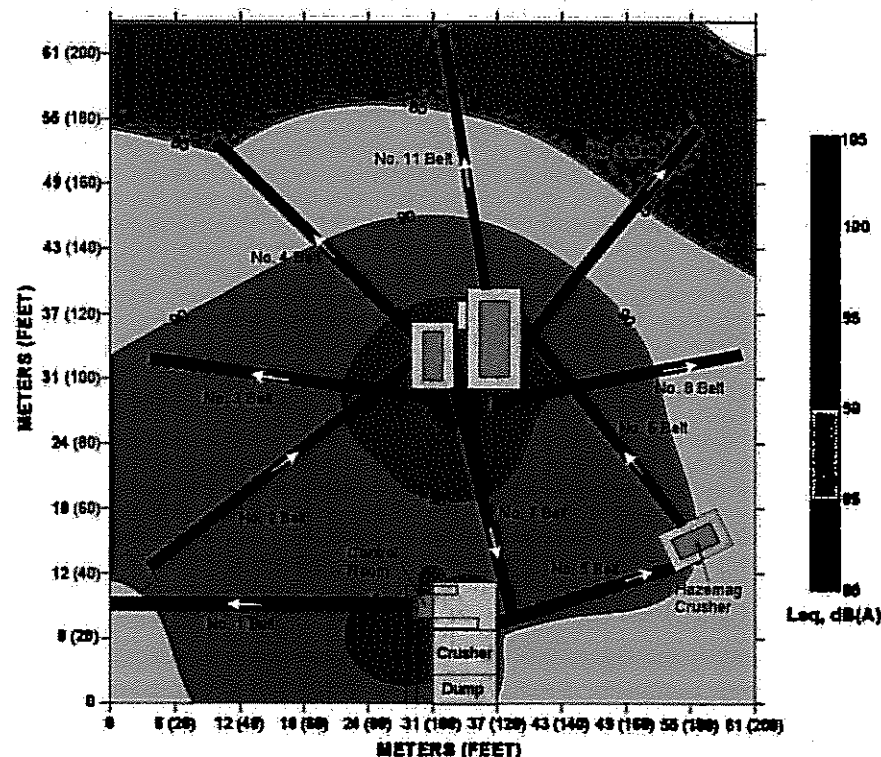
NIOSH, 1998, "Criteria for Recommended Standard, Occupational Noise Exposure, Revised Criteria 1998," National Institute for Occupational Safety and Health, Cincinnati, OH, DHHS (NIOSH) Publication 98-126, 105 p.

## 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.

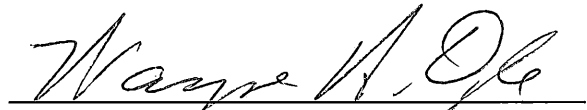
**SECTION 5.** The work group shall provide a final report to the planning commission, administration and assembly by June 5, 2018, and then discontinue unless extended by the assembly.

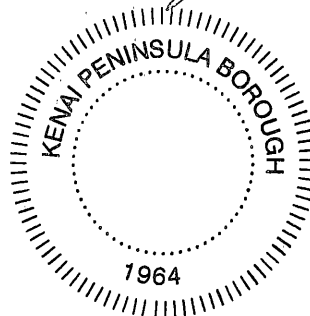
**SECTION 6.** That this resolution shall take effect immediately upon its adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF JANUARY, 2018.**

ATTEST:

  
John Blankenship, MMC, Borough Clerk

  
Wayne H. Ogle, Assembly President



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 weighing [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. 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, 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.**

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Kelly Cooper, Assembly President

ATTEST:

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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.

<b>CODE CHAPTER &amp; SECTION</b>	<b>VIOLATION DESCRIPTION</b>	<b>DAILY FINE</b>
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
<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

<b>CODE CHAPTER &amp; SECTION</b>	<b>VIOLATION DESCRIPTION</b>	<b>DAILY FINE</b>
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.**

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Brent Johnson, Assembly President

ATTEST:

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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. Appeal. 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 KP.B 21.29.030-050 with public notice given as provided by KP.B 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 KP.B 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 KP.B 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 KP.B 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
<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

<b>CODE CHAPTER &amp; SECTION</b>	<b>VIOLATION DESCRIPTION</b>	<b>DAILY FINE</b>
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.**

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Brent Johnson, Assembly President

ATTEST:

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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  
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 KP.B 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:

# Kenai Peninsula Borough

## Borough Assembly

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### 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 *(MT)*

**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)

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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.

**From:** [Turner, Michele](#)  
**To:** [Turner, Michele](#)  
**Cc:** [Warner, Avery](#)  
**Subject:** FW: <EXTERNAL-SENDER>Election pamphlets ordinance  
**Date:** Monday, December 19, 2022 8:49:29 AM

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Good morning,

Please see the public comment below regarding Ordinance 2022-44.

Thank you,

Michele Turner, CMC  
Acting Borough Clerk  
Kenai Peninsula Borough  
(907) 714-2165 direct

-----Original Message-----

From: Ken Landfield <ken@ak.net>  
Sent: Saturday, December 17, 2022 5:36 PM  
To: Turner, Michele <MicheleTurner@kpb.us>  
Subject: <EXTERNAL-SENDER>Election pamphlets 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.

> Dear President Brent Johnson and Kenai Peninsula Borough Assembly  
> legislators, I urge you not to amend the code that mandates you to mail voter information pamphlets to all registered voters. We should all be doing everything in our power to increase voter education and turnout, not limiting or diminishing access to important, balanced information in any way. Certainly, there are other means to this material, but we should look for more, not fewer, ways to provide access and to encourage informed voting. Please do not discontinue mailing printed informational pamphlets to every registered voter.

>  
> Ken Landfield  
> Homer  
>  
> 299-4147  
>  
>  
>



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. Testing automatic tabulating equipment for a run-off election shall be deemed appropriately tested before the regular or special election.

**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:

# Kenai Peninsula Borough

## Borough Assembly

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### 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)

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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.**

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Brent Johnson, Assembly President

ATTEST:

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Michele Turner, CMC, Acting Borough Clerk

# Kenai Peninsula Borough Assembly

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## 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)

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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.;

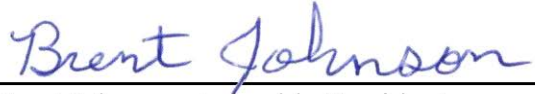
Thence westerly along the section line extended three miles into Cook Inlet;

Thence southwesterly to the protracted southeast corner of T6N R14W in Cook Inlet;

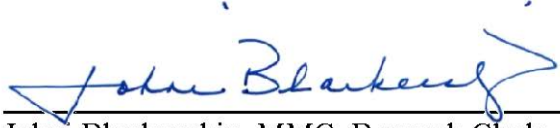
Thence westerly along the protracted township line between T5N and T6N to the mean high water line on the westerly shore of Cook Inlet the true point of beginning.

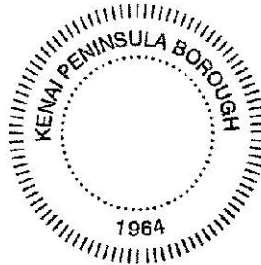
**SECTION 2.** That this ordinance shall be effective immediately upon enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF SEPTEMBER, 2022.**

  
Brent Johnson, Assembly President

ATTEST:

  
John Blankenship, MMC, Borough Clerk



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.**

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Brent Johnson, Assembly President

ATTEST:

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Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

# Kenai Peninsula Borough

## Planning Department

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### 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)

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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.



## Update from the Board of Directors Cook Inlet Regional Citizens Advisory Council

Grace Merkes, representing the Kenai Peninsula Borough

The Cook Inlet Regional Citizens Advisory Council met in Anchorage on December 1<sup>st</sup> and 2nd, 2022. This was our first time back in Anchorage since 2018.

The first day of the meeting was focused on updating CIRCAC's strategic plan. This plan is revisited on a semi-regular basis to track progress on current projects, develop plans for new projects, and refine operational objectives. Science Director Susan Saupe led the discussion, and the organization continues on a good track into the coming year.

A series of presentations was delivered, focused on different aspects of Cook Inlet's winter ice season. Individual topics ranged from United States Coast Guard regulations, to monitoring technology to operations strategies. CIRCAC Director of Operations Steve 'Vinnie' Catalano has been instrumental in establishing the Cook Inlet Ice Camera Monitoring Network, which provides real-time visual data from nearly a dozen locations throughout the Inlet, all based on partnerships developed between industry operators, state and federal regulators, municipalities and others.

Todd Paxton, Cook Inlet Spill Prevention and Response, Inc (CISPRI) General Manager explained to the Council what his organization's response capabilities and responsibilities are during the winter ice season, and in particular the opportunities and operational limits of the Tug Bob Franco, which is owned by Centerline Logistics;

Mary-Beth Schreck, Program Leader for the Sea Ice Analysis Program at the National Weather Service Alaska gave an overview of that program's goals, capabilities and role in forecasting ice conditions;

Captain Leanne Lusk, Commander, Sector Anchorage, United States Coast Guard, explained Ice Guidelines for 2022/2023 and the Coast Guard's role in ensuring vessel safety throughout the winter;

Captain Paul Mehler, Senior Port Captain for Marathon Petroleum Corporation, provided some details about the pre-winter meeting held each year in at AVTEC in Seward. That meeting brings together many of the same groups mentioned above to share information and plans ahead of the coming ice season.

Finally, Captain Debra Cobb, Global Marine Assurance Manager for Marathon explained the marine vessel vetting process for vessels operating in Cook Inlet during ice season. Captain Cobb also shared her personal account of an on-water incident that resulted in fatalities among her shipmates and injuries to



herself, which drove home the importance of constant vigilance at each step of a vessel's journey into and out of Cook Inlet during ice season.

The Council will hold its Annual Meeting on April 14, 2023 in Kenai, at which time elections for board members will be held. Three seats are up for reelection this year: Kenai Peninsula Borough, Kodiak Island Borough, Alaska Native Groups and Environmental Groups. Please contact the CIRCAC office at 907-283-7222 for more information about participating in the elections process.