



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Agenda Assembly

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

Tuesday, March 1, 2022

6:00 PM

Betty J. Glick Assembly Chambers

Meeting ID: 884 7373 9641 Passcode: 671108

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

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

[Clerk's Note: The invocation was given by Debbie Hamilton.]

ROLL CALL

COMMITTEE REPORTS

APPROVAL OF AGENDA AND CONSENT AGENDA

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

ACTION ITEMS CURRENTLY ON CONSENT AGENDA:

KPB 3964 – February 15, 2022 Regular Meeting Minutes
Resolution 2022-015 – Transfer of Emergency Equipment to WESA
Resolution 2022-016 – Retention Schedule Update
Ordinance 2021-19-39 – Snow Removal and Sanding Appropriation
Ordinance 2022-04 – Community Wildfire Plan Adoption
Ordinance 2022-05 – Amending KPB 2.34 Claims Mgr to Risk Mgr
KPB 3962 – New Marijuana Cultivation, L&H
KPB 3970 – North Road Extension Appointment
KPB 3971 – Emergency Mngmt Code Work Group Appointment

ACTION ITEMS ELIGIBLE TO BE ADDED TO THE CONSENT AGENDA:

Ordinance 2021-19-37 - Water Treatment System, Nikiski #3
Ordinance 2021-19-38 – SPH Property Update

APPROVAL OF MINUTES

[KPB-3964](#) February 15, 2022 Regular Assembly Meeting Minutes

Attachments: [February 15, 2022 Regular Assembly Meeting Minutes](#)

COMMENDING RESOLUTIONS AND PROCLAMATIONS**PRESENTATIONS WITH PRIOR NOTICE**

(20 minutes total)

1. [KPB-3965](#) Kenai Peninsula Borough School District Quarterly Report, Clayton Holland, Superintendent (10 minutes)

Attachments: [LAYDOWN Quarterly Report](#)
[LAYDOWN Legislative Fly In Packet](#)

2. [KPB-3966](#) Project Homeless Connect Annual Update, Jodi Stuart, Publicity Chair (10 Minutes)

Attachments: [LAYDOWN Presentation](#)
[LAYDOWN PHC Annual Report FINAL](#)
[LAYDOWN 2022 Homer Area Report](#)
[LAYDOWN Seward Cares Final Report](#)

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

(3 minutes per speaker; 20 minutes aggregate)

ITEMS NOT COMPLETED FROM PRIOR AGENDA**PUBLIC HEARINGS ON ORDINANCES**

(Testimony limited to 3 minutes per speaker)

[2021-19-37](#) An Ordinance Appropriating Funding from the Nikiski Fire Service Area Capital Project Fund for the Installation of a Water Treatment System at Nikiski Fire Station #3 (Mayor)

Attachments: [Ordinance 2021-19-37](#)
[Memo](#)
[LAYDOWN Advisory Board Recommendations](#)

[2021-19-38](#) An Ordinance Appropriating Funds from the South Peninsula Hospital Service Area Plant Replacement and Expansion Fund for Capital Repairs for the Property Located at 203 West Pioneer Avenue, Homer, Alaska (Mayor)

Attachments: [Ordinance 2021-19-38](#)
[Memo](#)
[SPH Inc. Board Resolution](#)
[LAYDOWN Advisory Board Recommendations](#)

[2022-02](#) An Ordinance Enacting KPB 2.40.110 and 2.40.120 Authorizing the Planning Commission to Adopt Bylaws and Defining Quorum (Chesley)

Attachments: [Ordinance 2022-02](#)
[Memo](#)
[LAYDOWN Advisory Board Recommendations](#)

UNFINISHED BUSINESS

NEW BUSINESS

1. Resolutions

Resolutions referred to Finance Committee

[2022-015](#) A Resolution Recognizing and Approving the Transfer of Fire and Emergency Related Equipment from Ninilchik Emergency Services, Inc. to the Kenai Peninsula Borough on Behalf of the Western Emergency Service Area (Mayor)

Attachments: [Resolution 2022-015](#)
[Memo](#)
[Attachment A](#)
[Reference Copy Ordinance 2020-31](#)
[Reference Copy Ordinance 2020-49](#)

Resolutions referred to Policies and Procedures Committee

[2022-016](#) A Resolution Approving a Quarterly Update to the Borough Retention Schedule (Johnson at the Request of the Borough Clerk)

Attachments: [Resolution 2022-016](#)
[Memo](#)

2. Ordinances for Introduction

Ordinances for Introduction and referred to Finance Committee

[2021-19-39](#) An Ordinance Appropriating \$200,000 in the School Maintenance Fund for Snow Removal and Sanding (Mayor) (Hearing on 04/05/22)

Attachments: [Ordinance 2021-19-39](#)
[Memo](#)

Ordinances for Introduction and referred to the Policies and Procedures Committee

[2022-04](#) An Ordinance Adopting the Updated 2022 Kenai Peninsula Borough Community Wildfire Protection Plan (Mayor) (Hearing on 04/05/22)

Attachments: [Ordinance 2022-04](#)
[Memo](#)

[2022-05](#) An Ordinance Amending KPB 2.34, Risk Management Office, to Change the Title of the Claims Manager to Risk Manager and Clarify the Current Operations of the Office of Risk Management (Mayor) (Hearing on 04/05/22)

Attachments: [Ordinance 2022-05](#)
[Memo](#)

3. Other

Other Items referred to Finance Committee

[KPB-3962](#) Approving the Issuance of a Letter of Non-Objection to the Marijuana Control Board Regarding the New Standard Marijuana Cultivation Facility, License No. 29493 filed by L & H Enterprises, LLC., Subject to the Standard Conditions.

[Clerk's Note: Standard Conditions for Commercial Marijuana Facilities are as follows: 1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough. 2. There shall be no parking in the borough

rights-of-way generated by the marijuana establishment. 3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020 (A).]

Attachments: [29493 - Memo to Assembly](#)
[LAYDOWN 29493 - Planning Memo to Assembly](#)
[29493 - New Complete Packet](#)
[29493 - Acknowledgement Form and Site Plan](#)
[29493 - Aerial Maps](#)

Other items referred to Policies and Procedures Committee

[KPB-3970](#) Confirming an Appointment to the North Road Extension Advisory Task Force (Mayor)

Jonathan Becker, Seat G, Term Expires 10/12/2022

Attachments: [Appointment](#)

[KPB-3971](#) Confirming the Appointment of Assembly Member Lane Chesley to the Emergency Management Code Update Work Group (Johnson)

Attachments: [Appointment](#)

MAYOR'S REPORT

[KPB-3967](#) Mayor's Report Cover Memo

Attachments: [Cover Memo](#)

1. Assembly Requests/Responses

2. Agreements and Contracts

3. Other

a. [KPB-3968](#) Revenue-Expenditure Report - January 2022

Attachments: [Revenue-Expenditure Report January 2022](#)

b. [KPB-3969](#) Budget Revisions - January 2022

Attachments: [Budget Revisions - January 2022](#)

c. [KPB-3992](#) LAYDOWN Investment Report Quarter Ended 12/31/21

Attachments: [LAYDOWN Investment Report Quarter Ended 123121](#)

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

ASSEMBLY COMMENTS**PENDING LEGISLATION**

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

1. [2021-41](#) An Ordinance Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures (Mayor, Johnson) [Tabled on 02/01/22]

(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 (Elam, Derkevorkian) [Tabled on 02/01/22]

Attachments:

[Ordinance 2021-41](#)
[Elam Amendment #2 \(notice of reconsideration given\)](#)
[Ecklund Tupper Amendment \(amendments pending\)](#)
[Ordinance 2021-41 \(Elam, Derkevorkian\) Substitute](#)
[Memo](#)
[Material Site Work Group Timeline](#)
[Legal Memo re Assembly Questions](#)
[Public Comments 021522](#)
[Public Comments 020122](#)
[Public Comments 020122](#)
[Public Comment 011822](#)
[Reference Copy Ordinance 2006-01 SUB](#)
[Reference Copy Resolution 2018-004 SUB](#)
[Reference Copy Resolution 2018-025](#)
[Elam Amendment #1 \(dealt with on 011822\)](#)

INFORMATIONAL MATERIALS AND REPORTS**ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS**

1. March 2, 2022 Reapportionment Committee

1:00 PM Betty J. Glick Assembly Chambers Borough Administration Building Remote participation available through Zoom Meeting ID: 830 1392 2779 Passcode: 247558

2. April 5, 2022 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

3. April 5, 2022 Assembly Subcommittee

Time: TBD Ordinance 2021-41 Work Session

Betty J. Glick Assembly Chambers Borough Administration Building Remote participation
available through Zoom Meeting ID: 830 1392 2779 Passcode: 247558

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 kpb.us: "Meeting and Public Notices" "Current Assembly Agenda".

Copies of the agenda and ordinances to be considered can be viewed on the website referenced above or at the Public Bulletin Board located on the window right of the double doors in the back of the Borough Administration Building. For further information, please call the Clerk's Office at 714-2160 or toll free within the Borough at 1-800-478-4441, Ext. 2160. Visit our website at www.kpb.us for copies of the agenda, meeting summaries, ordinances and resolutions.



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Minutes

Assembly

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

Tuesday, February 15, 2022

6:00 PM

Betty J. Glick Assembly Chambers

Meeting ID: 884 7373 9641 Passcode: 671108

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

[Clerk's Note: The invocation was given by Greg Madden.]

ROLL CALL

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

Also present were:

Charlie Pierce, Mayor

Brandi Harbaugh, Finance Director

Sean Kelley, Borough Attorney

Johni Blankenship, Borough Clerk

Michele Turner, Deputy Borough Clerk

COMMITTEE REPORTS

APPROVAL OF AGENDA AND CONSENT AGENDA

[KPB-3948](#) February 1, 2022 Regular Assembly Meeting Minutes
approved.

[2021-19-36](#) An Ordinance Appropriating \$78,978.78 to the Special Assessment Fund for the Lookout Drive Utility Special Assessment District

(Mayor)

[Clerk's Note: The third Whereas clause was amended to read, "on February 15, 2022, the assembly adopted Resolution 2022-005 to form the Lookout Drive Utility Special Assessment District and proceed with the improvement; and"]

This Budget Ordinance was enacted as amended.

[2022-03](#)

An Ordinance Amending the Effective Date of Ordinance 2021-19-30 Relating to the Staffing for Adequate Fire and Emergency Response Grant (Mayor)

This Ordinance was enacted.

[2022-005](#)

A Resolution Forming the Lookout Drive Utility Special Assessment District and Proceeding with the Improvement of a Natural Gas Main Line Extension (Mayor)

This Resolution was adopted.

[2022-013](#)

A Resolution Requesting that the Alaska State Legislature Amend Alaska Statute 29.40.020 to Change the Planning Commission Apportionment Requirement (Johnson, Hibbert, Elam)

This Resolution was adopted.

[2022-014](#)

A Resolution Supporting the City of Homer's Request to the Alaska State Department of Transportation for \$750,000 to Complete the Homer Port and Harbor Expansion General Investigation Study (Assembly, Mayor)

This Resolution was adopted.

[2021-19-37](#)

An Ordinance Appropriating Funding from the Nikiski Fire Service Area Capital Project Fund for the Installation of a Water Treatment System at Nikiski Fire Station #3 (Mayor)

This Budget Ordinance was introduced and set for public hearing.

[2021-19-38](#)

An Ordinance Appropriating Funds from the South Peninsula Hospital Service Area Plant Replacement and Expansion Fund for Capital Repairs for the Property Located at 203 West Pioneer Avenue, Homer, Alaska (Mayor)

This Budget Ordinance was introduced and set for public hearing.

[KPB-3949](#)

Approving the Issuance of Non-Objection to the Marijuana Control Board Regarding the New Marijuana Retail Store, Worner Bros. License No. 28899, Subject to the Standard Conditions

[Clerk's Note: Standard Conditions for Commercial Marijuana Facilities are as follows: 1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough. 2. There shall be no parking in the borough rights-of-way generated by the marijuana establishment. 3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KP.B 7.30.020 (A). 4. The marijuana establishment shall not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 a.m. and 8:00 a.m.]

approved.

[KPB-3937](#) Petition to Vacate a Portion of Wanda Avenue and Associated Utility Easements, as Granted per Brown's Lake Subdivision (Plat KN76-55) and King Rapids Subdivisions (Plat KN76-176). KP.B File 2021-168V. Petitioner(s): Kim M. Hansen of Soldotna, AK.

[Clerk's Note: The Planning Commission approved the referenced petition to vacate at its January 24, 2022 meeting by unanimous consent.]

approved.

[KPB-3944](#) Confirmation of Lee Frey as Director of Solid Waste
approved.

Approval of the Agenda and Consent Agenda as Amended

President Johnson called for public comment with none being offered.

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

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

COMMENDING RESOLUTIONS AND PROCLAMATIONS

PRESENTATIONS WITH PRIOR NOTICE

1. [KPB-3946](#) Central Peninsula Hospital Quarterly Report (10 Minutes)
[Clerk's Note: Rick Davis, CEO gave a quarterly report to the assembly.]
2. [KPB-3947](#) Spruce Bark Beetle Forest Management Project, Dakota Truitt, Land Management Agent (10 Minutes)

[Clerk's Note: Dakota Truit, Land Management Agent gave a quarterly report to the assembly.]

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

President Johnson called for public comment with none being offered.

ITEMS NOT COMPLETED FROM PRIOR AGENDA

PUBLIC HEARINGS ON ORDINANCES

UNFINISHED BUSINESS

NEW BUSINESS

1. Resolutions

[2022-012](#)

A Resolution Opposing a Statewide Sales Tax (Mayor)

Bjorkman moved to adopt Resolution 2022-012.

President Johnson called for public comment with none being offered.

Assembly Member Chesley spoke in support of Resolution 2022-012.

Assembly Members Bjorkman, Tupper, Derkevorkian, and Cox spoke in opposition to Resolution 2022-012.

President Johnson passed the gavel to Vice President Hibbert and spoke in support of Resolution 2022-012. Vice President Hibbert returned the gavel to President Johnson.

The motion to adopt Resolution 2022-012 carried by the following vote:

Yes: 5 - Hibbert, Johnson, Elam, Chesley, and Tupper

No: 4 - Bjorkman, Cox, Derkevorkian, and Ecklund

MAYOR'S REPORT

[KPB-3938](#)

Mayor's Report - Cover Memo

1. Assembly Requests/Responses

2. Agreements and Contracts

a. [KPB-3939](#)

Cybersecurity Incident Response and Recovery Sole Source Waiver to Execute a Contract with GCSIT Under KPB 5.28.290, Emergency

Procurement.

- b. [KPB-3940](#) Authorization to Award a Contract for RFP22-014 Siren Warning System Assessment to HQE Systems, Inc., Temecula, California
- c. [KPB-3941](#) Purchase of Cardiac Monitors/Defibrillators, Under the National Association of State Procurement Officials (NASPO) Contract from Stryker Medical.
- d. [KPB-3942](#) Request for Waiver of Formal Bidding Procedures - Computerized Legal Research Contract to Thomas Reuters
- e. [KPB-3943](#) Sole Source - Soldotna Elementary School Consolidation Study Revisions to Architects Alaska

3. Other

- a. [KPB-3945](#) Capital Projects Reports - December 31, 2021

PUBLIC COMMENTS AND PUBLIC PRESENTATIONS

President Johnson called for public comment with none being offered.

ASSEMBLY COMMENTS

Assembly Member Elam thanked everyone for their participation. He thanked Dakota Truitt for her presentation on spruce bark beetle mitigation in the borough and the hospital for their quarterly report. He stated he would like to start working on cyber security issues and solutions. He wished everyone a good night.

Assembly Member Cox shared his disappointment regarding the body's lack of action on Resolution 2021-080.

Assembly Member Tupper wished safe travels to the assembly members traveling to Juneau and thanked everyone for a good evening.

Assembly Member Derkevorkian spoke on sales tax revenues for the borough. He encouraged members of the public to attend the Kenai Peninsula Borough School District budget meetings.

Assembly Member Bjorkman thanked everyone for their participation in the meeting. He encouraged people to focus on the good things the borough does for its residents. He wished everyone a good night.

Assembly Member Chesley thanked everyone for their participation. He stated he

would be participating in the South Peninsula Hospital Master Facility Planning effort. He stated continued conversations on independent power producers (IPPs) were needed. He wished safe travels to the assembly members traveling to Juneau and thanked everyone for a good evening.

Assembly Member Ecklund thanked the assembly and staff for their hard work. She congratulated Lee Frey on his appointment as Solid Waste Director. She stated the Resilience Security and Advisory Commission would be touring the Central Peninsula Landfill on March 1, 2022 at 11:00 am. She stated she was looking forward to the Alaska Municipal League Winter Legislative Conference in Juneau.

Vice President Hibbert thanked President Johnson for a great meeting. He thanked the contractors for plowing the snow throughout the borough. He thanked the borough employees for their hard work and dedication. He wished safe travels to the assembly members traveling to Juneau.

President Johnson thanked the assembly for a good meeting. He encouraged parents to keep their kids out of snow tunnels.

PENDING LEGISLATION

1. [2021-41](#) An Ordinance Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures (Mayor, Johnson) [Tabled on 02/01/22]

 (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 (Elam, Derkevorkian) [Tabled on 02/01/22]
2. [2022-02](#) An Ordinance Enacting KPB 2.40.110 and 2.40.120 Authorizing the Planning Commission to Adopt Bylaws and Defining Quorum (Chesley)

INFORMATIONAL MATERIALS AND REPORTS

ASSEMBLY MEETING AND HEARING ANNOUNCEMENTS

1. February 23, 2022 Reapportionment Committee
1:00 PM Betty J. Glick Assembly Chambers Borough Administration Building
Remote participation available through Zoom Meeting ID: 830 1392 2779 Passcode: 247558
2. March 1, 2022 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

3. ****RESCHEDULED TO 04/05/22****

March 1, 2022 Assembly Subcommittee Ordinance 2021-41 Work Session

Time: TBD Betty J. Glick Assembly Chambers Borough Administration Building

Remote participation available through Zoom Meeting ID: 830 1392 2779 Passcode: 247558

ADJOURNMENT

With no further business to come before the assembly, President Johnson adjourned the meeting at 7:40 p.m.

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

Johni Blankenship, MMC, Borough Clerk

Approved by the Assembly: _____

Kenai Peninsula Borough School District



Kenai Central High School Job Shadow Day



Borough Assembly Quarterly Update
March 1, 2022
Superintendent Clayton Holland



Celebrations



Alaska Science



Alaska
Area: 663,268 sq mi
Area rank: 1st
Capital: Juneau
Largest city: Anchorage



Jason Daniels

Kalifornsky Beach
Elementary School
Soldotna, Alaska

"The Presidential Award is a symbol of teaching with many excellent teachers who are deserving. I am humbled to receive this honor. The award is a reflective journey of professional development as a teacher as a result. It honors my students and families and administrators that believed in me and I am grateful for their support. The greatest reward in my teaching is to see my students succeed in their learning."



Presidential Awards for Excellence in Mathematics and Science Teaching

Jason Daniels, K-Beach Elementary
National Presidential Award for
Excellence in Mathematics and
Science Teaching (PAEMST) awardee

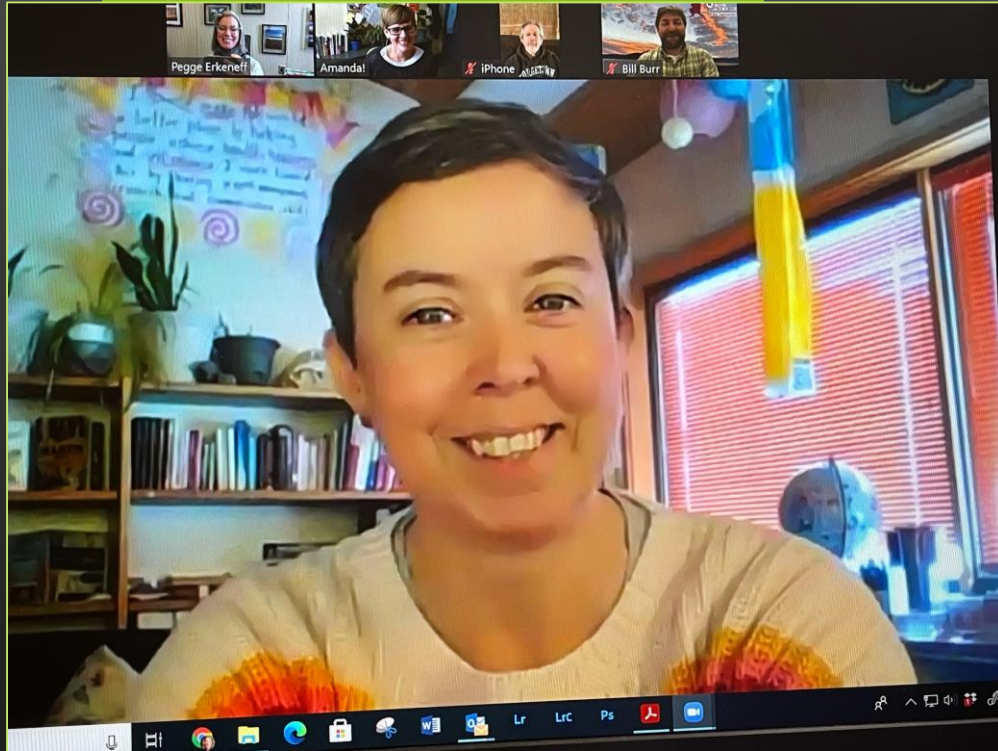


Kim Leslie, Distance Learning
Claes Nobel Educator of Distinction



Diane Buchanan, Student Nutrition
2022 Alaska School
Nutrition Association
Administrator of the
Year

Celebrations



Billeen Carlson, Nikolaevsk School
Alaska Society for Technology Education
ASTE Teacher of the Year



KPBSD
Finance
Department



Sara DeVold, Connections Homeschool
Statewide ASTE iDidAContest Wearable Art
Design "Illuminations" winner

STAFFING RATIOS

20.5:1	Type of School and Pupil-To-Teacher Ratio (PTR) Elementary schools with more than 250 enrolled students: Kindergarten
22.5:1	Elementary schools with more than 250 enrolled students: Grades 1-3
24.5:1	Elementary schools with more than 250 enrolled students: Grades 4-6
19.5:1	Elementary small schools with 100 to 250 enrolled students: Grades K-6
25.1	Middle and High schools
17.5:1	Small schools with less than 200 enrolled students: Grades K-6

PERSONNEL

2020-2021



District administration: 11
Building administration: 37
Certified staff: 645
Support staff: 470
Total: 1,163

Recruitment



Kenai Peninsula Borough School District

Virtual PreK-12 Education Career Fairs

Are you an educator curious about opportunities
to teach and live in Alaska?

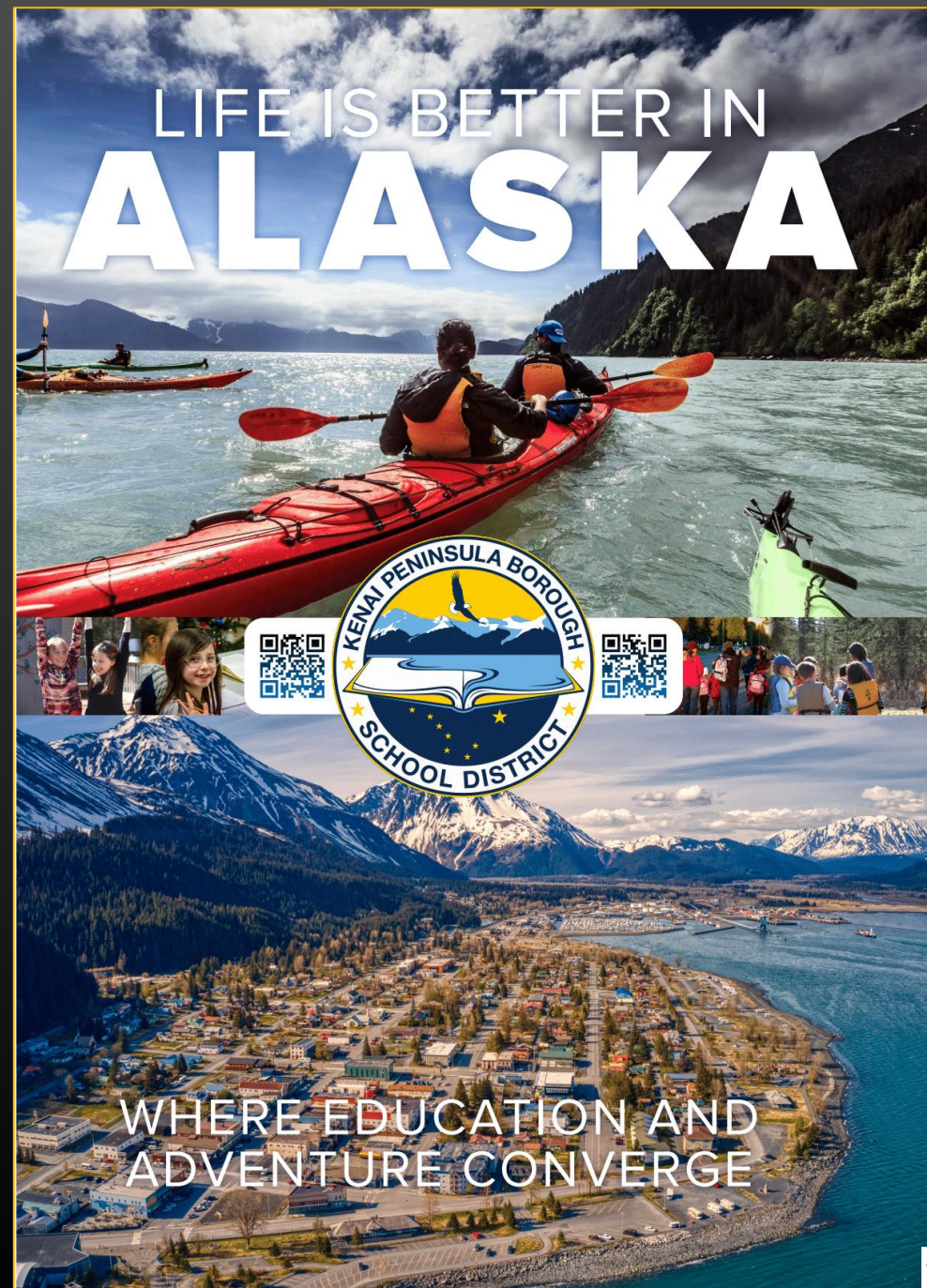
Here's your virtual Job Fair lineup to talk to the KPBSD team!

WHEN?	TIME (AKST)	REGION
Thurs., Feb. 10	9:00 - 1:00 PM	Mid-Atlantic
Tues., Feb. 15	9:00 - 1:00 PM	Great Lakes
Wed., Feb. 16	9:00 - 11:00 AM	New England
Wed., Feb. 16	11:00 - 1:00 PM	Southeast
Thurs., Feb. 17	10:00 - 2:00 PM	Southwest
Tues., Feb. 22	11:00 - 3:00 PM	Rocky Mountains
Wed., Feb. 23	10:00 - 2:00 PM	Plains
Thurs., Feb. 24	12:00 - 4:00 PM	West



REGISTER TO ATTEND go to <https://cfplus.page.link/yPH9> or www.aeee.org
Search the AAEE 2022 PreK-12 Education Career Fairs under "Events"
APPLY go to KPBSD.org and visit the Human Resources webpage, or find the "Apply Now" icon!

Kenai Peninsula Borough School District 148 N. Binkley St. Soldotna, Alaska 99669
apply: www.KPBSD.org | 907.714.8845 | e: Teach@KPBSD.org





Literacy

SB111 – Alaska Reads

Literacy Pre-K

#KenaiPeninsulaReads
#AKreads
SB111 and HB164

2021-2022 Title I funded Pre-K programs

1. Chapman School
2. Mountain View Elementary
3. Nikiski North Star
4. Ninilchik School
5. Redoubt Elementary
6. Seward Elementary
7. Tustumena Elementary
8. Sterling Elementary
9. Voznesenka School

Special Education Pre-K

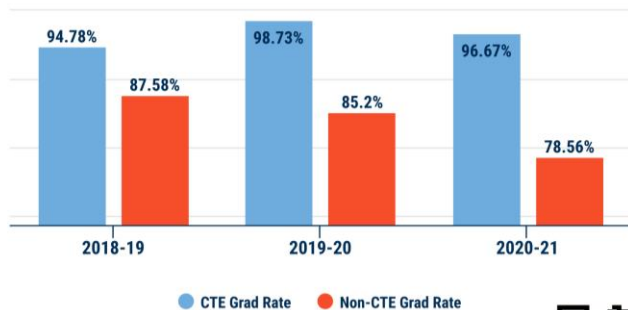
Homer, Kenai,
Seward, and Soldotna

"Literacy is the building block of all education. The KPBSD supports legislation that creates a statewide comprehensive K-3 reading policy to improve education outcomes for our students. Students across our entire state deserve high quality Preschool, and curriculum and instruction based on the science of reading. Now is the time for our state to come together on this critical issue."
-Superintendent Clayton Holland

Kenai Peninsula Borough School District
One district, 42 diverse schools
148 N. Binkley Street, Soldotna, AK 99660
www.KPBSD.org | 907.714.8888

19

Graduation Rate: with two + CTE classes



CTE is a broad term for education that combines academic and technical skills with the knowledge and training needed to succeed in today's labor market. CTE provides students of all ages with the academic and technical skills, knowledge and training necessary to succeed in future careers and to become lifelong learners.

In 2022, KPBSD is tracking HB108: Concurrent Secondary & Trade School

CTE Pathways in KPBSD

- Business & Information Systems
- Construction, Architecture & Drafting
- Engineering
- Digital Electronics
- Health Science
- Hospitality & Tourism
- Human Services
- Natural Resources
- Transportation

Facebook:
@KPBSDCareerTechnicalEducation



Kenai Peninsula College:
Emergency Trauma Technician

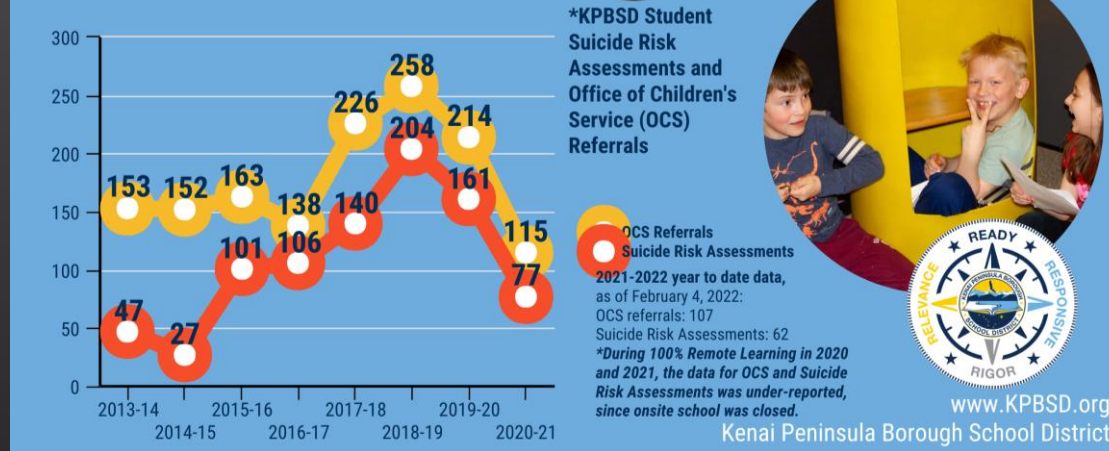
CTE in KPBSD

Community partners in CTE



Seward area Iron Mountain Future Farmers of America Career and Technical Student Organization

Social and Emotional Development



Seward High School, Sources of Strength (SOS)



Social and Emotional Development (SEL)

"The Social Emotional development of our students is key to having our students engaged in learning and becoming healthy members of our communities. In this time of stress and uncertainty, this work is more important than ever."
-Superintendent Clayton Holland

Supports provided by the school district

- Nurses
- School Counselors
- School Psychologists
- Student Success Liaisons (SSLs)
- Homeless Liaisons
- Professional Development for staff
- Interventionists, RTI, PBIS
- Special Education Behavioral Programs
- Competitive Grant funding**
- Sources of Strength Restorative Practices,
- Youth Mental Health First Aid,
- Trauma Informed Educators



ACES : An adverse childhood experience (ACE) describes a traumatic experience in a person's life occurring before the age of 18 that the person remembers as an adult.

Legislative Updates

- **SB111 Alaska Reads (Early Education; Reading Intervention)**
- **HB272 Increase BSA**
- **HB273 Inflation Proof BSA**
- **Long Term State Fiscal Plan**

Photos:
KPBSD Juneau fly-in with school board student representatives, board members, and superintendent of schools
Senator Murkowski visits Mountain View Elementary





HB272 Increase BSA and HB273 Inflation Proof BSA


Kenai Peninsula Borough School District
School Finance and The BSA
HB272 and HB273

"A long-term state fiscal plan and forward funding of K-12 education will provide predictability for school districts, and is necessary for positive student outcomes." -Superintendent Clayton Holland

HB272 - Increase Base Student Allocation (BSA)

 **HB272: Increase Base Student Allocation, provide for an effective date**
Current BSA: \$5,930
July 1, 2022: \$5,930 + \$253 = \$6,153
July 1, 2023: \$6,153 + \$55 = \$6,208

 A BSA increase of \$253 in 2022-2023 school year for the Kenai Peninsula Borough School District:
\$3,854,470
A BSA increase of \$55 in 2023-2024 school year:
\$950,654
(based on FY23 projected enrollment)



 The KPBSD projects a FY23 status-quo budget deficit of:
<\$7,018,488>
In FY24 and future years, KPBSD projects continued status quo deficit budgets

HB273 - Inflation Proof the Base Student Allocation (BSA)

If HB273 passes, in FY23, KPBSD would receive an additional **\$1,676,608** through the Foundation Formula, based on projected enrollment. The FY23 BSA would become \$6,027 with the inflation proofing formula*, in contrast to the current \$5,930 BSA.

*Each Fiscal Year, the BSA would be inflation proofed based on the average of three prior Calendar Years of the CPI of Urban Alaska, less one lag year.

The BSA formula calculation is from the "Increasing and Inflation Proofing the Base Student Allocation" presentation, by Ariel Svetlik, Staff to Representative Andi Story



Kenai Peninsula Borough School District
K-12 Education COVID-19 Federal Relief Funding

 Funding to support K-12 education in response to the COVID-19 pandemic was provided to Alaska through three relief Acts. Each Act contains specific set-asides, or funding allocations, to school districts.
[State of Alaska DEED Covid-19 Dashboard](https://bit.ly/33dBrdz)
<https://bit.ly/33dBrdz>

I. CARES Act
Coronavirus Aid, Relief, and Economic Security Act
Elementary and Secondary School Emergency Relief (ESSER I) fund
\$2,295,953
Fully expended in FY21, from March 2020 - June 30, 2021

II. CRRSA Act
Coronavirus Response and Relief Supplemental Appropriations
Elementary and Secondary School Emergency Relief (ESSER II) fund
\$9,080,405
Fully Expended in FY21 from March 2020 - June 30, 2021

- Retain FY21 staffing levels: 48.5 FTE Certified staff; 9.70 FTE Support Staff
- Maintain PTR at current levels: 27 FTE positions
- Elementary School Counselors, Student Success Liaisons

COVID-19 in the KPBSD Hub
[Covid19.KPBSD.org](https://covid19.kpbsd.org)
Review the mitigation plan, school operations dashboard, Symptom Free Schools Protocol, and related resources

 **MITIGATION PLAN**

 KPBSD COVID-19 Hub

One district, 42 diverse schools, in 17 communities



III. ARP Act
American Rescue Plan
Elementary and Secondary School Emergency Relief (ESSER III) fund
\$20,414,897
Funds available July 1, 2021 - June 30, 2024

- Maintain staffing levels currently supported by ESSER II funds, through period of availability
- \$4,082,979, which is 20% of the ESSER III funding, is reserved to address learning loss through the implementation of evidence-based interventions such as summer learning or enrichment, extended school day, and comprehensive afterschool programs

www.KPBSD.org

School Operation Updates:



COVID-19 Mitigation Plan Updates

effective Friday, March 4, 2022



Kenai Peninsula Borough School District
www.KPBSD.org

THANK YOU!



Questions?

The mission of the Kenai Peninsula Borough School District is to empower all learners to positively shape their futures.

www.KPBSD.org



Thank you for your leadership!

2020-2021 FAST FACTS

THE KPBSD IS COMPRISED OF 42 DIVERSE SCHOOLS, IN 17 DIVERSE COMMUNITIES SPANNING 25,600 SQUARE MILES



ENROLLMENT



Preschool.....	189
Kindergarten-6th grades.....	4,128
7th-8th grades.....	1,238
9th-12th grades.....	2,435
Enrollment for 2020-2021 school year.....	7,990



STUDENT NUTRITION SERVICES

Free meals served throughout the school year - both in person, and "Get-It And Go" when in 100% Remote Learning

Breakfast: **131,737**

Lunch: **300,641**



BUS TRANSPORTATION

2,862 students are transported **6,670** miles throughout the school district every day!



2020-2021 DOLLARS AND CENTS

\$0.71 Salaries and benefits
 \$0.07 TRS/PERS On-Behalf
 \$0.09 Discretionary accounts
 \$0.08 In-kind services
 \$0.04 Utilities
 \$0.01 Transfers
 = \$1.00 from 2020-2021 General Fund



HEALTH SERVICES

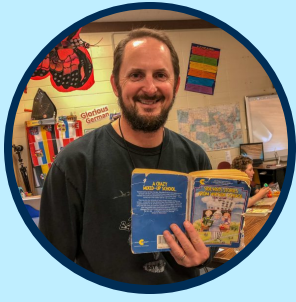
Students visited the nurse office or telehealth **28,169** times this school year. That's less than half the typical number, likely due to: Symptom Free School protocols, parents made effort not to send their children to school ill; part of the school year was 100% remote; and some parents chose the remote learning option or to homeschool.



Kenai Peninsula Borough School District

Celebrate Student & Educator Success

In the 42 schools across the Kenai Peninsula, students learn, excel, achieve. Every. Single. Day.



JASON DANIELS
K-BEACH ELEMENTARY

Presidential Award for Excellence in Mathematics and Science Teaching (PAEMST)

"Science education is now more important than ever. We live in an age of science and technology. It has shaped our lives and will shape the lives of our children even more. To this end, we have new Science Standards of Alaska (SSA) for Alaskan educators. The new standards were vetted by Alaskan teachers in an effort to make them more relevant for Alaskan kids and the Alaskan way of life. The SSAs are designed around three dimensions of science understanding, and more closely aligned with how science happens in our daily lives and they are very teachable."

National story coming February 18
Finalist story:
<https://bit.ly/3G2QyEo>



ANNA DEVOLD
CONNECTIONS HOMESCHOOL

Anna DeVold designed the Promote Our Pollinators (POP) program to educate her community about bees and other pollinators, why their numbers are declining, and to offer ways to promote their population growth.

Recipient of the **President's Environmental Youth Award (PEYA)** the program promotes awareness of our nation's natural resources, encourages positive community involvement, and recognizes outstanding environmental projects. Anna offers POP presentations and educational activities in schools, libraries, senior centers, and at community events. She is an award winner in the KPBSD Caring for the Kenai program and continues to receive statewide recognition awards. Story:

<https://bit.ly/3jevBNW>



SPENCER CO
HOMER HIGH SCHOOL

Spencer Co, now a sophomore at Homer High School, is one of only a couple hundred people worldwide to receive not just a score of 5 on the AP Computer Science exam, but also received every point possible on the test, putting him in the top .29% of people who took the test!

"It's really rewarding to know that the time and commitment I put into studying computer science was recognized in some regard. Still, my perfect score was in a way simply a matter of chance. I'm sure that other students could have achieved the same, but had only missed a few questions."



LINNAEA GOSSARD
COOPER LANDING SCHOOL

2021 Alaska Society for Technology in Education (ASTE) Student of the Year

Linnaea Gossard fashioned her own educational experience and thrives in the virtual world using her 21st century skills and knowledge. Starting in 7th grade, she took 24 live synchronous classes with 16 different teachers from eight different schools—all from her one room K-12 schoolhouse in Cooper Landing. She is a certified Video Tele Communications (VTC) facilitator and coordinator, the cocreator of the districtwide VTC Coordinating Program (creating opportunities for remote students to take live synchronous courses not available at their school) and was the VTC Coordinating Program Intern for the KPBSD. Story: <https://bit.ly/2Xn54pQ>



KIM LESLIE, KPBSD
DISTANCE LEARNING

2021 Alaska Teacher of the Year Finalist

"I design courses rich with information and engaging learning tasks in Canvas, primarily work with my students asynchronously, and the feedback cycles that happen in text, recorded video and Zoom fuel the heart of their learning. Often my students' curiosities, hopes and dreams guide what we dig into the most. I can honestly say that I learn more from them in the end: They share their gulps with me!" One deeply moving part of my work is witnessing the return on investments in people. I watch students stand a little straighter, walk a little farther, and sometimes leap over hurdles simply because I (and other stakeholders in their world) said, "I believe in you."

Story: <https://bit.ly/3proR3i>

Learn more at [KPBSD.org](https://www.kpbsd.org), connect on social media, download the free mobile app, or subscribe to the communications blog





Recruit and Retain Educators and Staff

KPBSD accepts up to 12 years of eligible in-state experience for salary schedule placement

02:2022 FY21 Data

Kenai Peninsula Borough School District



HUMAN RESOURCES

The Kenai Peninsula Borough School District's Human Resources Department is committed to providing the "best and brightest" employees to educate and support our students, in an environment that is committed to excellence.

PERSONNEL 2020-2021



District administration: 11
Building administration: 37
Certified staff: 645
Support staff: 470
Total: 1,163



STAFFING RATIOS

Type of School and Pupil-To-Teacher Ratio (PTR)

20.5:1	Elementary schools with more than 250 enrolled students:
	Kindergarten
22.5:1	Elementary schools with more than 250 enrolled students:
	Grades 1-3
24.5:1	Elementary schools with more than 250 enrolled students:
	Grades 4-6
19.5:1	Elementary small schools with 100 to 250 enrolled students:
	Grades K-6
25.1	Middle and High schools
17.5:1	Small schools with less than 200 enrolled students:
	Grades K-6

LIVE AND WORK IN ALASKA'S PLAYGROUND

The Kenai Peninsula Borough School District is seeking exceptional individuals to join our team. Situated in a beautiful part of Southcentral Alaska known as Alaska's Playground, KPBSD is a progressive, innovative school district. Forty-two schools serve over 8,000 students from 17 diverse communities located on the road system, and some only accessible by boat or plane. From a K-8 grade school of 16, a traditional neighborhood high school of over 700, four Russian Old Believer schools, three village schools, Connections Homeschool, four charter schools, two alternative high schools, and a performance based school—there is something for everyone. KPBSD schools provide students a solid education to prepare them for life after graduation.

Nearly 1,200 KPBSD staff are dedicated to continuous improvement to embrace strategic plan goals in academic success, organizational excellence, and community and family engagement. If you choose the KPBSD, you will be joining an exciting and successful team of leading educators who do whatever it takes to help every student achieve success.



The mission of the Kenai Peninsula Borough School District is to empower all learners to positively shape their futures.

www.KPBSD.org
@KPBSD





Literacy Pre-K

#KenaiPeninsulaReads
#AKreads
SB111 and HB164

2021-2022 Title I funded Pre-K programs

1. Chapman School
2. Mountain View Elementary
3. Nikiski North Star
4. Ninilchik School
5. Redoubt Elementary
6. Seward Elementary
7. Tustumena Elementary
8. Sterling Elementary
9. Voznesenka School

Special Education Pre-K

Homer, Kenai,
Seward, and Soldotna

"Literacy is the building block of all education. The KPBSD supports legislation that creates a statewide comprehensive K-3 reading policy to improve education outcomes for our students. Students across our entire state deserve high quality Preschool, and curriculum and instruction based on the science of reading. Now is the time for our state to come together on this critical issue."

—Superintendent Clayton Holland



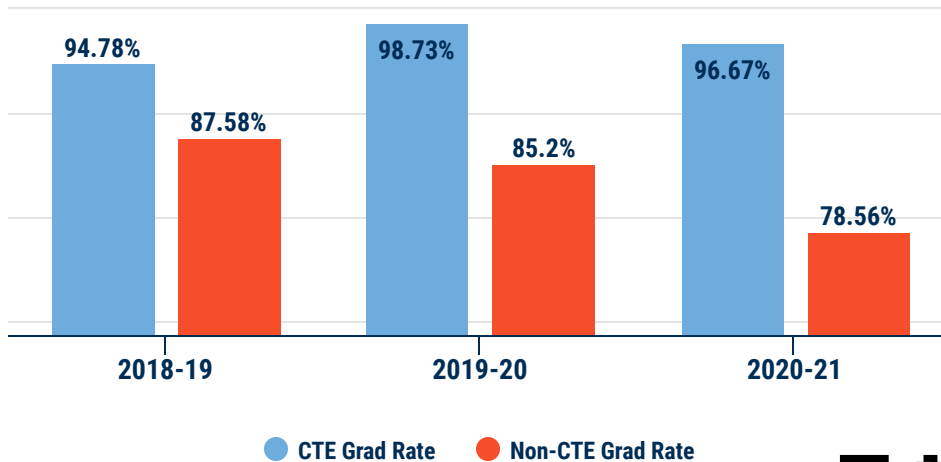
Kenai Peninsula Borough School District
One district, 42 diverse schools
148 N. Binkley Street, Soldotna, AK 99660
www.KPBSD.org | 907.714.8888



Kenai Peninsula Borough School District **CTE:** Career and Technical Education



Graduation Rate: with two + CTE classes



CTE is a broad term for education that combines academic and technical skills with the knowledge and training needed to succeed in today's labor market. CTE provides students of all ages with the academic and technical skills, knowledge and training necessary to succeed in future careers and to become lifelong learners.

*In 2022, KPBSD is tracking HB108:
Concurrent Secondary & Trade School*

CTE Pathways in KPBSD

- Business & Information Systems
- Construction, Architecture & Drafting
- Engineering
- Digital Electronics
- Health Science
- Hospitality & Tourism
- Human Services
- Natural Resources
- Transportation

Facebook:
@KPBSDCareerTechnicalEducation



**Kenai Peninsula College:
Emergency Trauma Technician**



Social and Emotional Development (SEL)

"The Social Emotional development of our students is key to having our students engaged in learning and becoming healthy members of our communities. In this time of stress and uncertainty, this work is more important than ever."
-Superintendent Clayton Holland

Supports provided by the school district

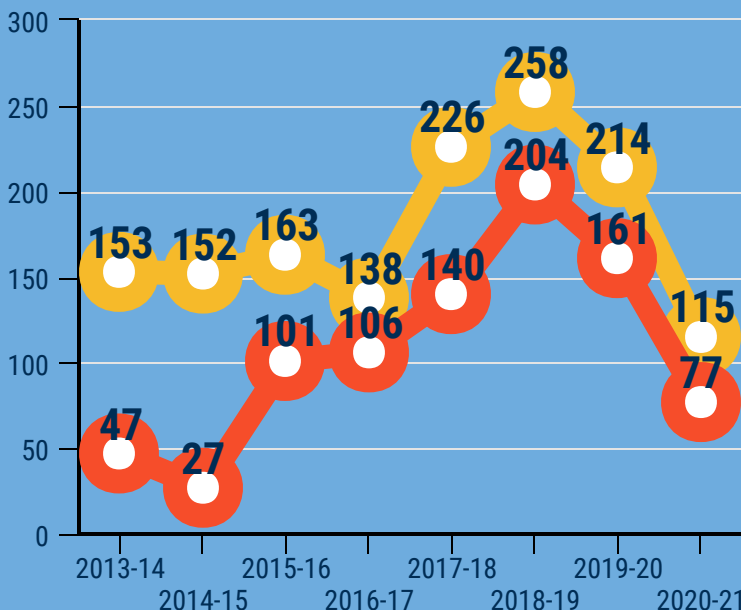
Nurses
School Counselors
School Psychologists
Student Success Liaisons (SSLs)
Homeless Liaisons
Professional Development for staff
Interventionists, RTI, PBIS
Special Education Behavioral Programs
Competitive Grant funding
Sources of Strength Restorative Practices,
Youth Mental Health First Aid,
Trauma Informed Educators ...



ACES : An adverse childhood experience (ACE) describes a traumatic experience in a person's life occurring before the age of 18 that the person remembers as an adult.



*KPBSD Student Suicide Risk Assessments and Office of Children's Service (OCS) Referrals



OCS Referrals
Suicide Risk Assessments

2021-2022 year to date data,
as of February 4, 2022:

OCS referrals: 107

Suicide Risk Assessments: 62

*During 100% Remote Learning in 2020 and 2021, the data for OCS and Suicide Risk Assessments was under-reported, since onsite school was closed.



Kenai Peninsula Borough School District

K-12 Education

COVID-19 Federal

Relief Funding



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KPBSD Finance



I. CARES Act

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Kenai Peninsula Borough School District

School Finance and The BSA

HB272 and HB273



"A long-term state fiscal plan and forward funding of K-12 education will provide predictability for school districts, and is necessary for positive student outcomes." -Superintendent Clayton Holland



HB272 - Increase Base Student Allocation (BSA)



HB272: Increase Base Student Allocation, provide for an effective date

Current BSA: \$5,930

July 1, 2022:
 $\$5,930 + \$253 = \$6,153$

July 1, 2023:
 $\$6,153 + \$55 = \$6,208$



A BSA increase of \$253 in 2022-2023 school year for the Kenai Peninsula Borough School District:

\$3,854,470

A BSA increase of \$55 in 2023-2024 school year:

\$950,654

(based on FY23 projected enrollment)



The KPBSD projects a FY23 status-quo budget deficit of:

<\$7,018,488>

In FY24 and future years, KPBSD projects continued status quo deficit budgets

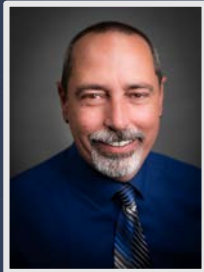
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Kenai Peninsula Borough School District 2021-2022 Board of Education



Zen Kelly
President
5317 Kachemak Dr.
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jkelly@kpbsd.org

District 9
Term Expires: 2022



Debbie Cary
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District 7
Term Expires: 2023



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District 3
Term Expires: 2023



Tim Daugharty
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District 8
Term Expires: 2024



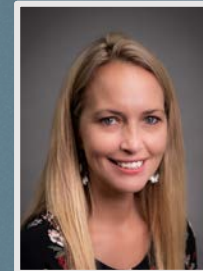
Virginia Morgan
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99572
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vmorgan@kpbsd.org

District 6
Term expires: 2022



Penny Vadla
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District 4
Term Expires: 2023



Jennifer Waller
Member
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District 5
Term Expires: 2024



Matt Morse
Member
154 E. Redoubt Ave.
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District 2
Term Expires: 2024

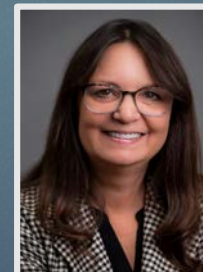


Patti Truesdell
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Ptruesdell@kpbsd.org

District 1
Term Expires: 2022



Neviya Reed
Student
Representative
Homer High School
600 E. Fairview Ave.
Homer, AK 99603



Lisa Gabriel
Board Administrative
Secretary
148 N. Binkley St.
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**Kenai Peninsula
Borough School
District**

148 N. Binkley St.
Soldotna, AK 99669
Phone: (907)714-8888
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www.kpbsd.k12.ak.us

The mission of the Kenai Peninsula Borough School District is to
empower all learners to positively shape their futures.



KENAI PENINSULA BOROUGH SCHOOL DISTRICT

Board of Education

148 North Binkley Street Soldotna, Alaska 99669-7520
Phone (907) 714-8888 Fax (907) 262-9132

2022 State Legislative Priorities

The Kenai Peninsula Borough School District stands ready to work with the Alaska legislature to find the right solutions to fully implement the following priorities in order to support development of world-class graduates from our public schools.

- **Public Education Priority**

Section I of Article VII Health, Education, and Welfare of the Alaska State Constitution is clear: “The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.” The Kenai Peninsula Borough School District (KPBSD) fully supports what our State’s founders promised all generations of Alaskans. An equitable and suitable public school system provides opportunities for the preparation of all Alaskan children for effective citizenship in our state and nation; as such, it is critical that public funds go to support public schools.

- **Timely, sustainable, adequate education funding plan**

The State of Alaska must provide timely, sustainable, adequate revenue for public schools in Alaska. This funding must be consistent, reliable and predictable to provide full funding to meet increasing costs and the diverse and significant needs of our students. Early notification of funding is critical for sound financial management, as well as recruitment and retention of quality educators.

- **Review and reconsider the state’s bond reimbursement program moratorium and ensure the existing state’s bond reimbursement program is funded**

Across Alaska, Educational Facilities are aging and many have significant maintenance needs. KPBSD encourages the Legislature to review existing needs state-wide. In the past, the Kenai Peninsula Borough voters have approved bond funding for school maintenance projects with the understanding that the state would reimburse an agreed percentage of the bond payments. Past reduction of this reimbursement amount is concerning and disrupts local budgets. The Kenai Peninsula Borough School District encourages the legislature to continue to fulfill current obligations and to reinstate this necessary program in order to maintain, upgrade, and replace existing facilities.

- **Positive School Climate, Social and Emotional Learning and Well-being**

Social and emotional learning (SEL) and wellbeing is the key to providing a safe school environment, conducive to learning, and must be a high priority. With the high rates of domestic violence, childhood trauma and adverse childhood experiences (ACES) in Alaska, and in light of the collective trauma our students, families, staff, and communities have experienced due to the COVID19 Global Pandemic, school efforts towards meeting social emotional needs is more critical than ever. The state must provide financial support so schools can partner with local communities to implement comprehensive, culturally appropriate school-based mental health programs that support and foster the health and development of students.

Additional funding is necessary to enable schools to increase, recruit and retain more school counselors, school social workers, school psychologists, and mental health specialists. Funding is also needed to increase professional development opportunities for districts in planning and implementing interventions for students experiencing childhood trauma and other mental health challenges. Meeting the Social Emotional Learning needs of students is essential to the long term well-being of our students and ultimately of our communities.

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KPBSD Board Members and Superintendent

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Debbie Cary, Vice President	Greg Madden
Jason Tauriainen, Clerk	Matt Morse
Mike Illg, Treasurer	Virginia Morgan
Penny Vadla	Clayton Holland, Superintendent

BOE Approved 10-4-2021

2022 Federal Legislative Priorities

The Kenai Peninsula Borough School District (KPBSD) stands ready to work with the federal legislature to find the right solutions to fully implement the following priorities in order to support development of world-class graduates from our public schools.

- **Public Education Priority**

The KPBSD believes that public education is an indispensable component for strengthening the ideals of our nation's democracy and a necessary, unifying, and dynamic influence in American life. The public school insures the preparation of all children for effective citizenship in the United States. As such, it is critical that public funds go to support public schools. The State of Alaska and KPBSD are very supportive of school choice, as evidenced by providing accountable public, charter, alternative and home school programs. Similar to what is in the Alaska Constitution; we oppose any legislation that expends public funds through voucher programs, or indirectly through tax credits or related plans, to fund any religious or other private educational institution. Our district has always been accountable for all public funds received. In order for all children to be provided a fair opportunity to succeed, any educational entity receiving public funds should be held accountable in the same manner as KPBSD.

- **Positive School Climate, Social and Emotional Learning and Well-being**

Social and emotional learning (SEL) and wellbeing is the key to providing a safe school environment conducive to learning must be a high priority. With the high rates of domestic violence, childhood trauma and adverse childhood experiences (ACES) in Alaska, and in light of the collective trauma our students, families, staff, and communities have experienced due to the COVID19 Global Pandemic, school efforts towards meeting social emotional needs is more critical than ever. The state must provide financial support so schools can partner with local communities to implement comprehensive, culturally appropriate school-based mental health programs that support and foster the health and development of students.

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- **Funding of IDEA, Federal Title Programs and Accountability**

Since its inception in 1975, The Individuals with Disabilities Education Act (IDEA) has protected students with disabilities by ensuring access to a free appropriate public education. The Federal government was able to establish this program with a promise to provide States with at least 40% of the of the National Average per Pupil Expenditure.

While special education funding has received significant increases over the past 18 years, federal funding has leveled off recently and has even been cut. The closest the federal government has come to reaching its 40 percent commitment was 18 percent in 2005. The KPBSD requests that the promised funding level to implement IDEA is provided to states and districts as soon as possible so that all students receive the highest quality education possible in all of our schools and that the approximately 6 million students with disabilities in our country are able to fully realize the promise of IDEA.

With the Every Student Succeeds Act (ESSA) implementation underway, the Kenai Peninsula Borough School District urges the United States Department of Education (USDE) to honor local control and avoid federal overreach while implementing ESSA. KPBSD also requests that federal legislators eliminate discretionary funding caps, to allow adequate investment in education, including full funding of the education programs authorized by the bipartisan Every School Succeeds Act. We also ask that the USDE honor the intent of the law and not attempt to create regulations that “fix” problems not addressed in legislation such as the “supplement, not supplant restrictions” and the insistence by USDE to require that a school’s performance be defined by a single designation.

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BOE Approved 10-4-2021



Project Homeless Connect: 2022 Data

Brought to you in partnership with the Kenai Peninsula Continuum of Care, the Kenai Peninsula Homelessness Coalition, and the Kenai Peninsula Project Homeless Connect Sub-committee

Speakers: Jodi Stuart-PR Chair

Our Goals

Connect people to services efficiently and effectively that would otherwise be difficult to access

Build a more compassionate community

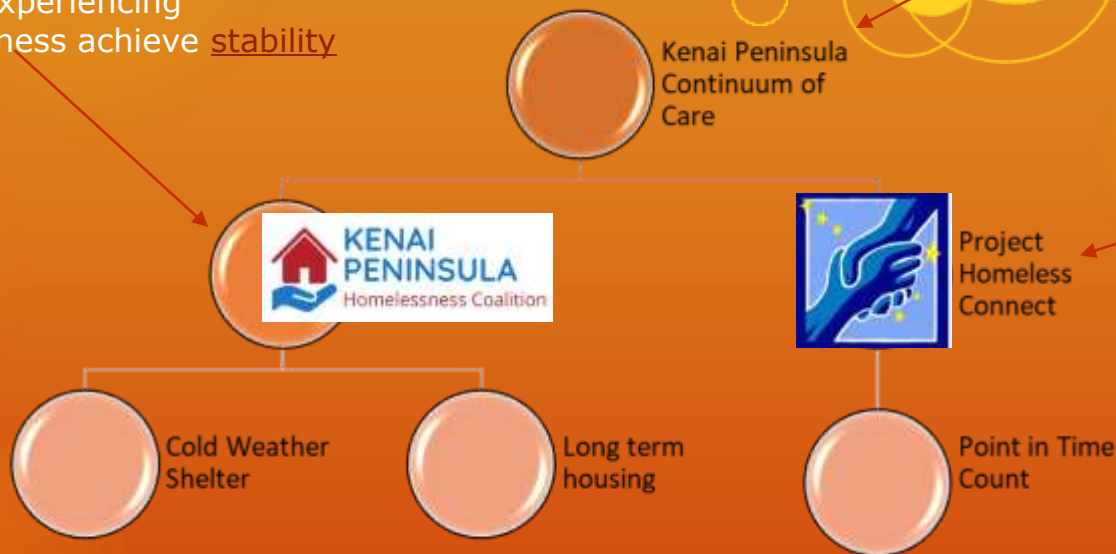
Reduce stigma

Provide data



Our Organizational Structure

Mission: To help individuals and families experiencing homelessness achieve stability

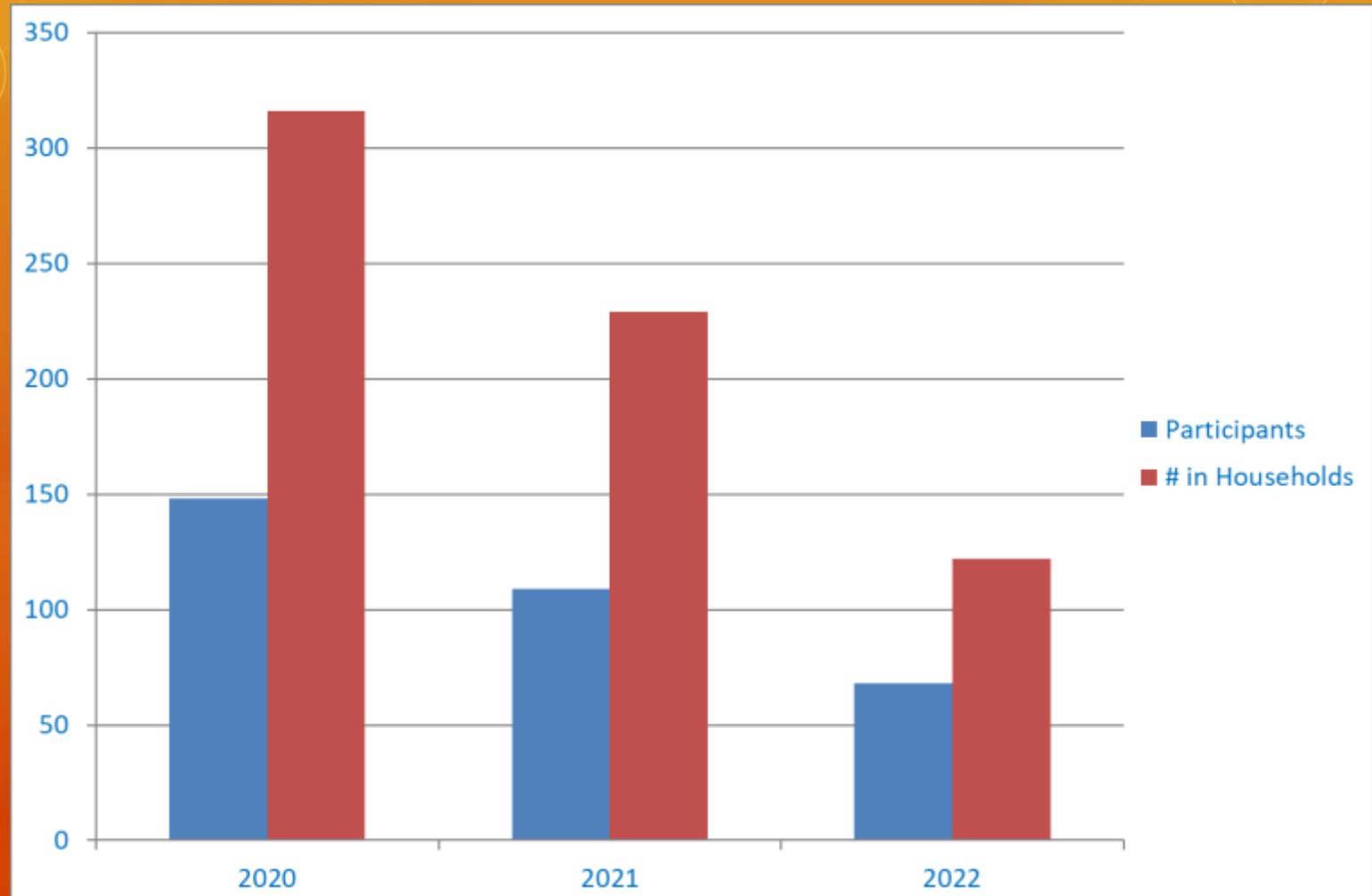


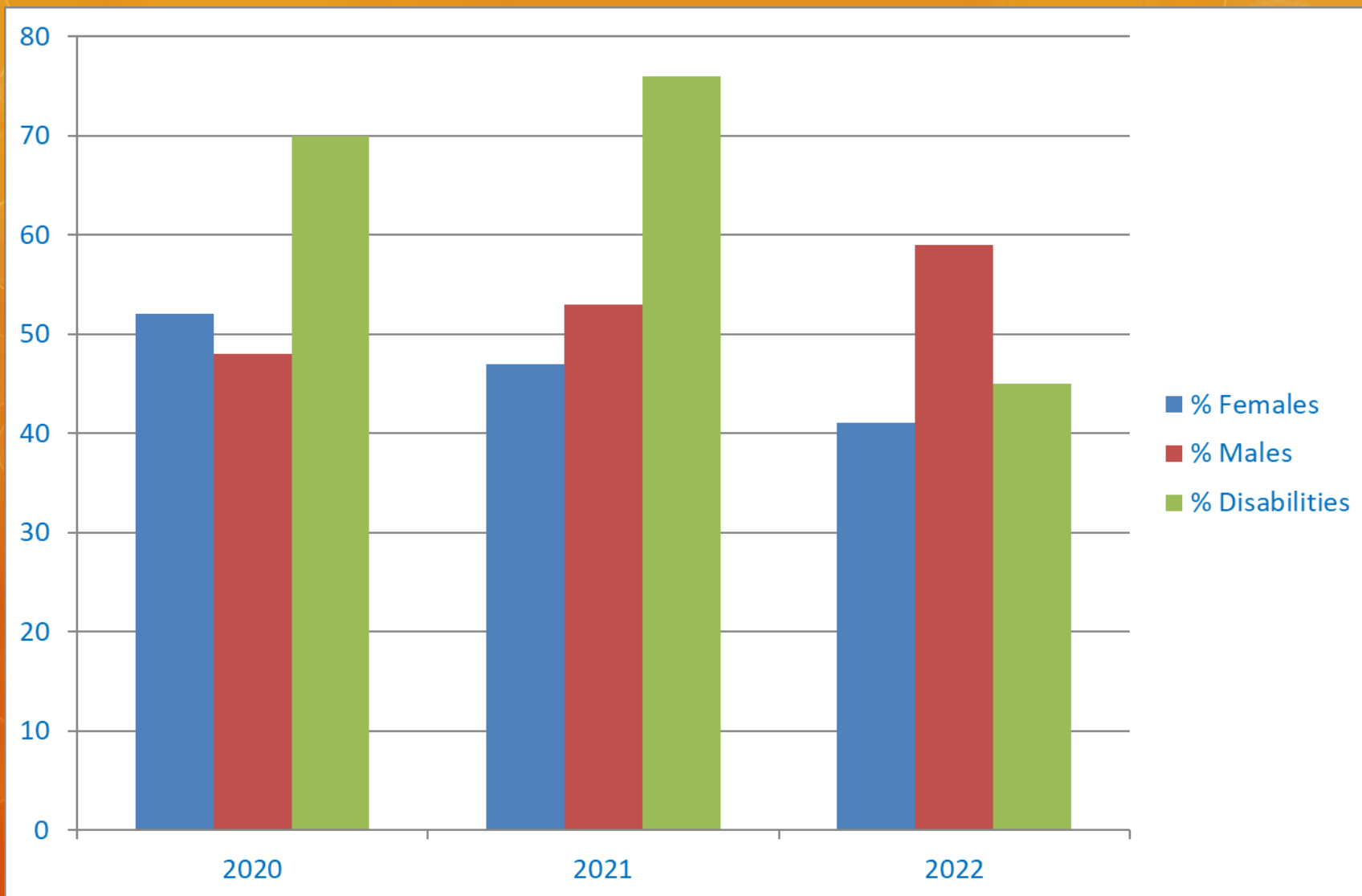
CoC is a regional planning body that coordinates housing and services funding for homeless families and individuals

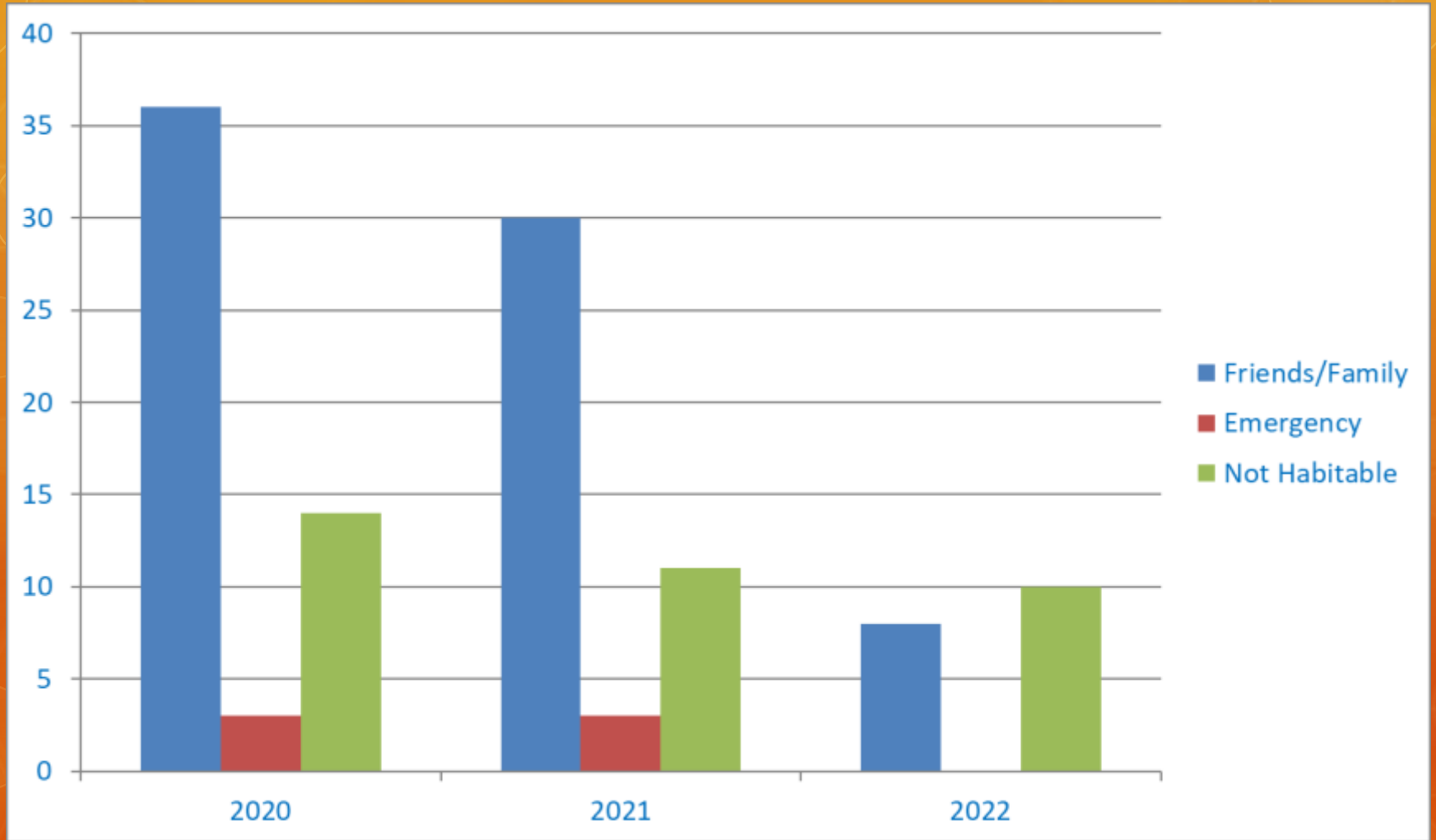
A one-day event to connect people to services

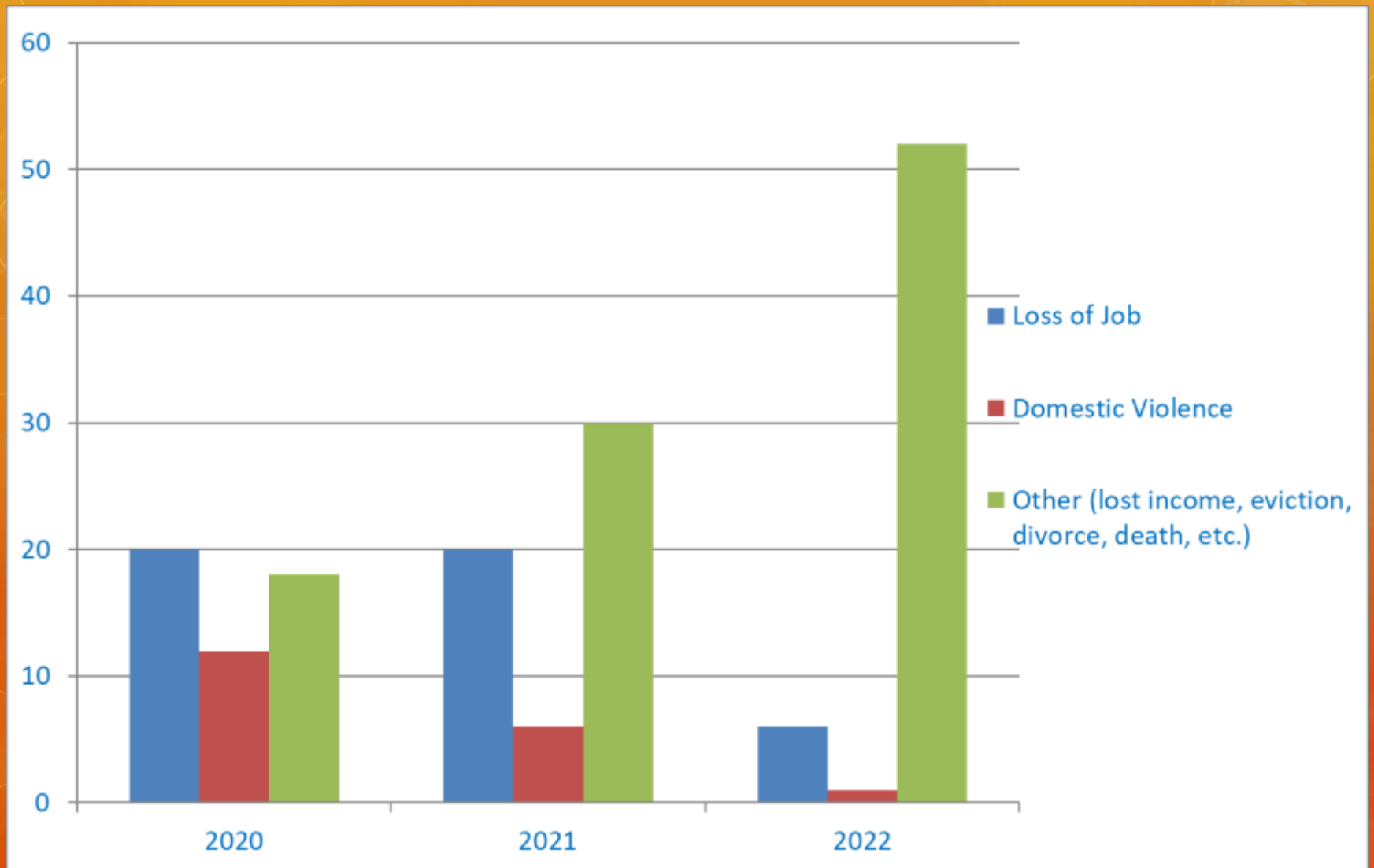
COVID DATA-2020-2022

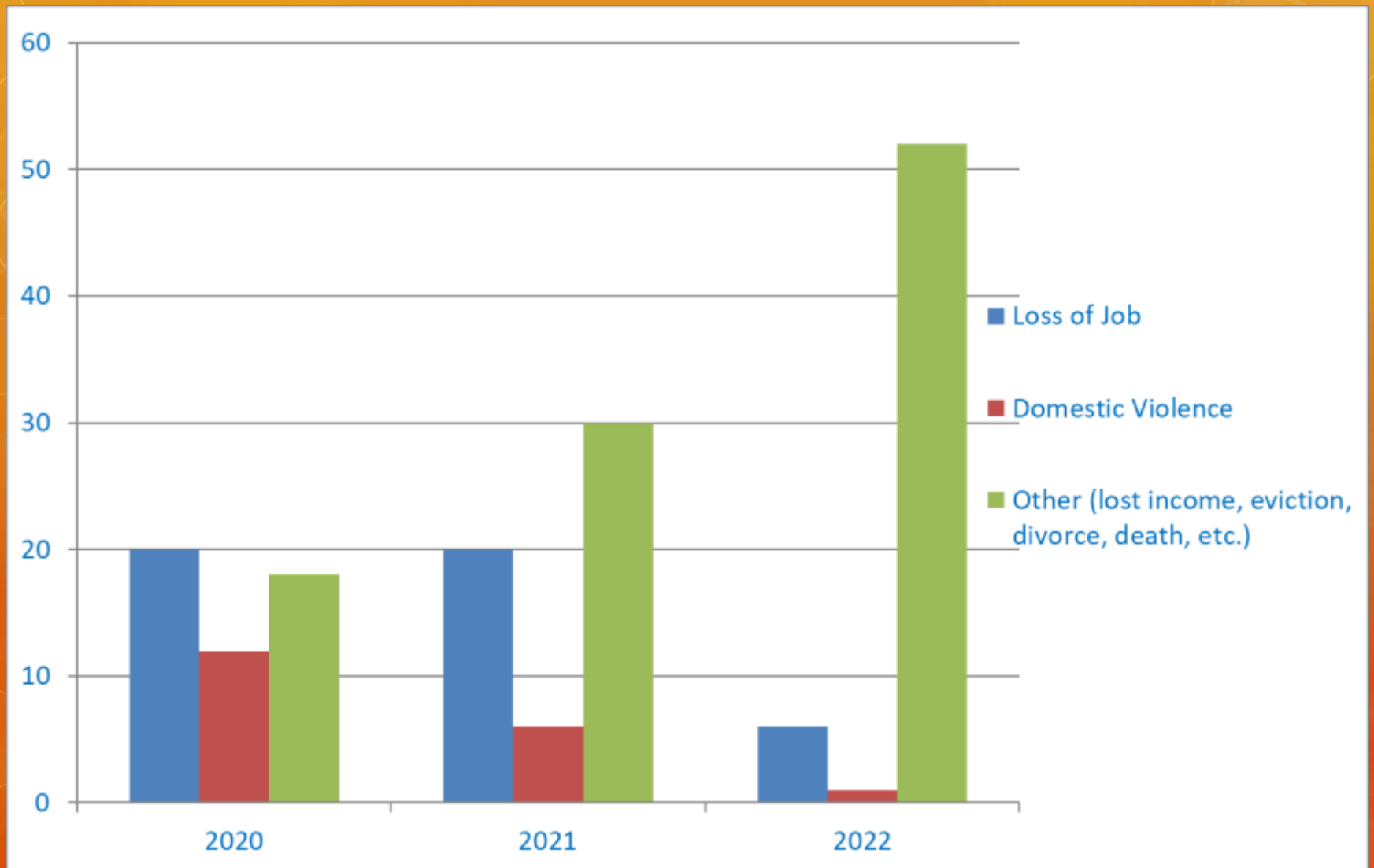
How a pandemic impacted us.











2022 Point in Time Count/PHC

Where did you sleep
on 1/25/2022?

The Point in Time Count is a count of sheltered and unsheltered persons experiencing homelessness carried out on one night in the last 10 calendar days of January. According to HUD guidance, the PIT count should be completed using unduplicated counts or statistically reliable estimates of persons experiencing homelessness in both sheltered and unsheltered locations on a single night.

Project Homeless Connect is honored as a best practice model by HUD.

Types of Homelessness For 2022

- Homeless: 31%
- Institutional: 3%
- Temporary/Permanent: 65%



Photos courtesy of Merrill Sikorski

Episodes of Homelessness

- 1st Time: 43%
- 2nd Time: 15%
- 3rd Time: 10%
- 4 or More Times: 15%



What the people need:



- 89% stated if an emergency cold weather shelter existed, they would use it.
- Primary needs reported: Transportation/Employment/Food
- Secondary Needs: Medical/SSI/Clothes

Highlights of the 2022 Event

- 3 animals received services
- 7 people requested pet supplies
- 100 COVID19 Home Test kits were distributed
- 7 COVID19 vaccines were administered
- 16 women were enrolled in the Ladies First Program (breast & cervical screening)



Photo's courtesy of Merrill Sikorski



Homer and Seward

SEWARD:

- Seward began their own event in 2020. Their project is called "Seward Cares-A Project Homeless Connect Event." 25 individuals participated in 2021. 49 individuals participated in 2022.
- 42% had disabilities.
- 15% were currently homeless. 13% reported being homeless for more than 12 months.
- 40 COVID tests kits were distributed with 2 vaccines provided.
- There were five veterans.
- 10% reported being homeless four or more times with 13% reporting they had been homeless for more than twelve months in the last three years.

HOMER:

- Homer began their own event in 2020. In 2021, they did a drive-in service where participants picked up resources and food. Anchor Point also participated. 65 individuals participated between the two communities. Over 117 people were represented through the process. For 2022, 63 individuals attended the event between Homer and Anchor Point. There were 33 intakes completed in Homer and 21 intakes completed in Anchor Point.
- There were six veterans.
- 27% reported a disability (Physical health problems/TBI/Mental Health)
- 20% were currently homeless and 78% were in temporary or permanent housing
- 42% reported they were last in a stable residence within the last year. 19% reported they had gone more than five years since they had a stable residence.
- 23% reported being homeless twice in the last three years.
- 19% reported they had been homeless more than 12 months.

Housing Realities



- Alaska ranks #15 for needing the highest wage to afford a two bedroom apartment
- 4 boroughs of Alaska are in the top 11 counties/boroughs in the nation for needing the highest wage to afford a two bedroom apartment
- Alaska is more expensive for individuals on SSI.
- Paying more than 30% of income on housing is considered “unaffordable.”

In **Alaska**, the Fair Market Rent (FMR) for a two-bedroom apartment is **\$1,235**. In order to afford this level of rent and utilities — without paying more than 30% of income on housing — a household must earn **\$4,115** monthly or **\$49,382** annually. Assuming a 40-hour work week, 52 weeks per year, this level of income translates into an hourly Housing Wage of:

\$23.74
PER HOUR
STATE HOUSING
WAGE

FACTS ABOUT ALASKA:

STATE FACTS

Minimum Wage	\$10.34
Average Renter Wage	\$20.23
2-Bedroom Housing Wage	\$23.74
Number of Renter Households	90,350
Percent Renters	36%

92

Work Hours Per Week At
Minimum Wage To Afford a 2-Bedroom
Rental Home (at FMR)

71

Work Hours Per Week At
Minimum Wage To Afford a 1-Bedroom
Rental Home (at FMR)

2.3

Number of Full-Time Jobs At
Minimum Wage To Afford a
2-Bedroom Rental Home (at FMR)

1.8

Number of Full-Time Jobs At
Minimum Wage To Afford a
1-Bedroom Rental Home (at FMR)

MOST EXPENSIVE AREAS

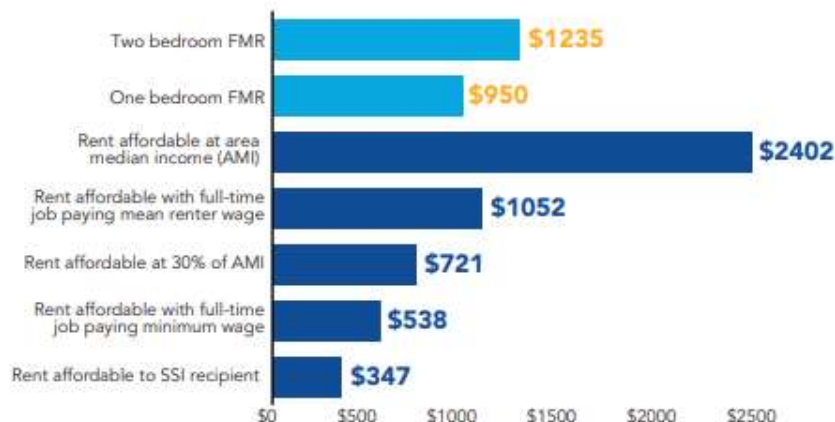
HOUSING WAGE

Bethel Census Area	\$31.04
Aleutians West Census Area	\$30.67
Nome Census Area	\$29.50
Kodiak Island Borough	\$28.25
Denali Borough	\$27.94

MSA = Metropolitan Statistical Area; HMA = HUD Metro FMR Area.

* Ranked from Highest to Lowest 2-Bedroom Housing Wage. Includes District of Columbia and Puerto Rico.

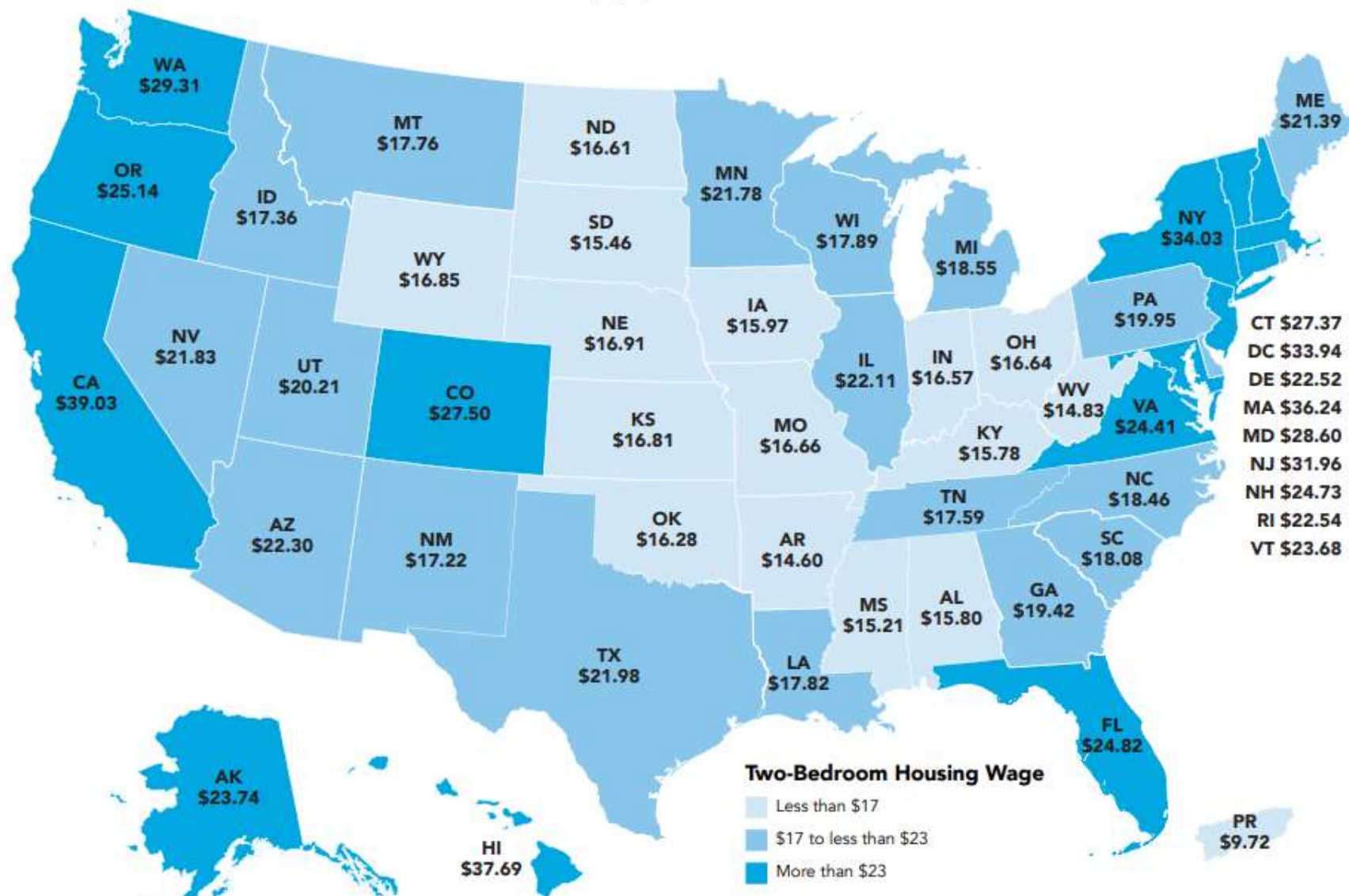
OUT OF REACH 2021 | NATIONAL LOW INCOME HOUSING COALITION



AK-28

2021 TWO-BEDROOM RENTAL HOUSING WAGES

Represents the hourly wage that a full-time worker must earn (working 40 hours per week, 52 weeks per year) in order to afford Fair Market Rent for a **TWO-BEDROOM RENTAL HOME**, without paying more than 30% of income.



Thank you to our sponsors!



Bridges Community
Resource Network,
Inc.



Central Peninsula Area
Churches

**OVER A DECADE OF PROVIDING SUPPORT TO THOSE
EXPERIENCING HOUSING CRISIS
11TH ANNUAL
2022 PHC RECAP**

Thank you for allowing us to
speak today.

At Project Homeless Connect, we
believe that no one deserves to
lose hope. Help us help them in
2023.

Questions?



KENAI PENINSULA

2022 PROJECT HOMELESS CONNECT REPORT



No one deserves to lose hope



The Homeless Action Coalition is proud to report on the Kenai Peninsula's 11th Annual Project Homeless Connect event held on January 26, 2022. Our success is due to the collaborative effort between service providers, the private sector, volunteers, and the community members.

A special thank-you to the following:

Event Co-Chairs: Kathy Gensel & Frank Alioto

Intake: Cheri Smith & Patty Eissler

Food: Kenai Peninsula Food Bank

Provider Services, Vendors: Leslie Rohr

Publicity: Jodi Stuart

Transportation: Brent Hibbert & Taylor Cochran

Donations: Kellie Bartelmay & Judy Fischer

Volunteers: Beth Selby

Check-Out: Melissa Kline

Fundraising: Kathy Gensel

Logistics: Kathy Gensel & Frank Alioto

Steering Committee

Abby Struffert	Jane Conway	Marquitta Andrus
Agnes Nunn	Jason Warfle	Mary Bell
Alecia Gottlob	Jeffery Eide	Mary Starrs Armstrong
Ashley Blatchford	Jodi Stuart	Melisa Miller
Beth Selby	Judy Fischer	Mickey Miller
Carolyn Potter	Justin Ruffridge	Pascale Dilley
Charlene Tautfest	Karla Evarts	Pastor April Hall
Chelsey Hong	Kathleen Totemoff	Pastor Karen Martin-Tichenor
Cheri Smith	Kathy Gensel	Paul Whitney
Cinda Martin	Katie Cowgill	Peggy Rogers
Cristina Lee	Kellie Bartelmay	Raquel Eisenmann
D. Ohler	Kelly King	Ronda Oglesby
David Smith	Kelly Whitmore	Sandee Simons
Foot	Kimberly Earll	Shari Conner
Frank Alioto	Leslie Rohr	Sharon Kelly
Georganne Roberts	Levi Sutton	Sherra Pritchard
Greg Meyer	Lindsey Anasogak	Suzanne Richards
Hadassah Knight	Lindsey Collins	Tim Navarre
Hanna Nowalkowski	Margaret Gilman	Twyla Mundy
Heather Schaefer	Margie McCord	Wayne Mundy

Demographics of Population Served

Sixty-eight (68) individuals participated in the PHC event. The total household number based on participant input was 122.

A total of 38 individuals (56%) reported this was their first time participating in the Kenai Peninsula Project Homeless Connect event.

Gender

	Frequency	Percent
Male	40	59%
Female	28	41%
Trans Gender	0	0
Questioning	0	0
Gender other than female or male	0	0
NA / Refused		
Total	68	100%

Age

	Frequency	Percent
Less than 18	1	1%
18 - 24	1	1%
25 - 44	32	47%
45 – 64+	31	46%
NA / Refused	3	5%
Total	68	100%

Race

	Frequency	Percent
American Indian / AK Native	23	34%
Black / African American	3	5%
Hawaiian/Pacific Islander	1	1%
White	40	59%
Asian or Asian American	0	0
NA / Refused	1	1%
Total	68	100%

Ethnicity

	Frequency	Percent
Hispanic or Latino	1	1%
Non-Hispanic / Non-Latino	63	93%
NA / Refused	4	6%
Total	68	100%

Veteran

	Frequency	Percent
Yes	8	12%
No	59	87%
NA / Refused	1	1%
Total	68	100%

Head of Household

	Frequency	Percent
Self	63	93%
Head of Household's partner	4	6%
Head of Household's child	1	1%
Other relation member	0	0
Non-relation member	0	0
Total	68	100%

Disabling Conditions

	Frequency	Percent
Alzheimer's/Related Dementia	0	0
Chronic Alcoholism/other substance use disorder	11	35%
Intellectual/Developmental	7	22%
Mental Illness	14	45%
Traumatic Brain Injuries	7	22%
NA / Refused	38	55%

***Percentages above based on 31 individuals (45%) who disclosed one or more disabling conditions.*

Alaska Native Regional Corporation

	Frequency	Percent
Not Affiliated	33	49%
Bering Straits Native	1	1%
Cook Inlet Regional	5	8%
Bering Straits	1	1%
Sealaska	0	0
Ahtna	1	1%
Bristol Bay Native	2	3%
Doyon Limited	2	3%
13 th Regional	0	0
Aleut	0	0
Calista	0	0
Koniag	0	0
Arctic Slope Regional	0	0

Chugach Alaska	0	0
NANA Regional	1	1%
N/A	22	33%
Total	68	100%

Sexual / Relationship Orientation

	Frequency	Percent
Heterosexual / Straight	63	93%
Gay	0	0
Lesbian	0	0
Bisexual	0	0
Questioning	0	0
Aromantic	0	0
Asexual	0	0
Demisexual	0	0
Pansexual	0	0
Queer	0	0
Other	0	0
NA / Refused	5	7%
Total	68	100%

Slept Prior Night

	Frequency	Percent
Homeless	21	31%
Institutional	2	3%
Temporary/Permanent	44	65%
NA / Refused	1	1%
Total	68	100%

How long staying there?

One night or less	2	3%
Two to six nights	2	3%
1 week or more (less 1 month)	6	9%
1 month or more (less 90 days)	10	15%
90 days or more (less 1 year)	11	16%
One year or more	18	26%
Don't know / Refused	19	28%
Total	68	100%

Last time in stable housing of some kind?

2014 - 2015	1	1%
2016 - 2018	15	22%
2019 - 2020	11	16%
2021 - 2022	30	45%
NA / Refused	11	16%
Total	68	100%

Homeless Episodes – Past 3 Years

	Frequency	Percent
1 time	29	43%
2 times	10	15%
3 times	7	10%
4 or more	10	15%
NA / Refused	12	17%
Total	68	100%

Total Number of Months Homeless in past 3 years

	Frequency	Percent
1 month	9	14%
2 months	4	6%
3 months	6	9%
4 months	4	6%
5 months	1	1%
6 months	2	3%
7 months	2	3%
8 months	1	1%
9 months	0	0
10 months	0	0
11 months	0	0
12 months	3	4%
More than 12 months	24	36%
NA / Refused	12	17%
Total	68	100%

Participant Exit Survey = 68 (100%)

Rating	Excellent	Very Good	Fair	Poor
The event was helpful to me.	58 (85%)	10 (15%)	0	0
I felt respected and supported.	61 (90%)	7 (10%)	0	0

How did you hear about the event?

Inquiries	Love INC.	Phone call	Radio
Job service	Advertisement	Friends	Word of mouth
Family	Freedom House	Daughter	KSRM radio station
PCHS	Been here before	Friend	Food Bank
OCS	Public broadcast	Girlfriend	Walk-in
Flyer	Facebook	Previous PHC	Dena'ina Tobacco Quit Line
Case worker	Co-worker	Attend yearly	

Would you use an Emergency Cold Weather Shelter in community if available?

- Yes = 60 (89%) No = 5 (7%) NA = 3 (4%)

Suggestions for notification of Cold Weather Shelter:

Public announcements	Phone call	Message board
Radio	Email	Church / library
Warning alarm / VHF / Phone	Word of mouth	Through Love INC.
Friends or family	Social media	Lifeline phone
Job service	Text or call	Text alert
Mail		

Number of Individuals in Household

Age 13 and Under	37
Age 14 - 24	6
Age 25 and Over	79
Total	122

Primary Reason for Homelessness

	Frequency	Percent
Loss of Job	4	6%
Work hours cut	0	0
Rent / Utility Increase	3	4%
Lease Violation	0	0

Illness / Injury	4	6%
Substance Abuse	4	6%
Domestic Violence	1	1%
Family Dispute	0	0
Aged out Foster Care	0	0
Jail / Prison Release	3	4%
Treatment Center Release	0	0
Loss of Roommate	0	0
Divorce	2	3%
Eviction	1	1%
New to Community	2	3%
**Other (see below)	35	52%
NA / Refused	9	14%
Total	68	100%

****Other includes:** lack money or income, lost home, lack of work, bad management of money, end of lease, legal trouble, alcohol, criminal background, lack of available housing, living with my daughter, rent is expensive, choose to be homeless, low income, rental trailer falling apart, spent a bunch for funeral, can't find a house, having bad luck, waiting for housing, lost everything to my ex, OCS case, house burnt down, no housing, COVID, waiting for available housing, separated from family, don't have a place to rent, cleanliness, COVID having to take time off

Form of Transportation

	Frequency	Percent
Own Vehicle	27	40%
Friend/Family Member	17	25%
Public Transport	2	3%
Taxi	4	6%
Walk / Ride Bike / Snow machine	13	19%
Hitchhike	0	0
NA / Refused	5	7%
Total	68	100%

Besides housing what is your primary need right now?

Employment in my trade / training	Fix vehicle	Dental
A home and vehicle	Employment	Therapy/counseling
To reconnect correctly	Clothing	Firewood
Food	Transportation	Clothes
Sleeping bag / work	Socks, shoes, coat	Food/gas
Money	Direct assistance	SSI
Health	Income/disability	Child support/legal services
Gasoline	Being able to work	Housing
Food/blankets	Vehicle	Money to fix my debt
God/prayer	Medical	Legal services

Help with housing items for kids

Learn how to adjust to life outside of addiction

Other needs to get back to you about:

Availability of employment in ship/boat repair industry

Showers

Child support/legal services

Laundry / shower services

Work

First Project Homeless Connect event?

Yes = 38 (56%)

No = 29 (43%)

NA = 1 (1%)





Our gratitude and thanks to all the following volunteers, vendors, and donors who helped make this event possible!

VOLUNTEERS

Alaska Christian College Students
Alicia Morgan
Amanda Perez
Amorette Payment
Andy Knapp
Angie Kelly
Anthony Alvey
Ashley Blatchford
Beth Selby
Bill Kelley
Brenda Chamness
Catie Kline
Charlie Simons
Chelsey Carter
Chris Dokke
Chuck Kuhlmann
Cindy Rombach
Cindy Wentzlaff & Tolly
Crystal Swartz
Diane Fielden

Emily Alvey
Gigi Rogers
Gracie Oseuk
Harold Jackson
Heather Schaefer
Jenna Barry
Jennifer Flores
Jerry Rombach
Karen Martin-Tichenor
Keziah Simons
Kyle Graham
Kyle Moore
Linda Tannehill
Margaret Gilman
Margie McCord
Matthew Craig
Melissa Kline
Ofa Finau
Pam Richard
Pamela Howard

Pastor Meredith Harber
Pat Young
Patty Eissler
Peggy Rogers
Rae Linn
Rae Wysong
Rick Oelrich
Robert McGinnis
Sally Oelrich
Sandee Simons
Selena Payment
Sharon Kelly
Sherry Martinovich
Summer Hall
Summer Trefon
Tanya Lange
Tim Navarre
Tyler Sargeant

VENDORS

49 th State Law	Ladies First/S.A. F.R.
ABC Life Choices	Love, INC.
Alaska Housing Finance Corporation	MASST
Boys & Girls Club of the Kenai Peninsula	Nikiski Shelter of Hope
CARTS	Ninilchik Traditional Council – MAT Program
Change 4 the Kenai	Pastor Meredith Harber, Frank Alioto
CICADA	Peninsula Community Health Services
Division of VOC Rehab	Peninsula Job Center
Independent Living Center	Sin Shearly
Kenai Peninsula College	SNAP
Kenai Peninsula Food Bank	SOA Public Assistance
Kenai Peninsula Re-Entry Coalition	Students in Transition
Kenai Public Health	The LeeShore Center
Kenaitze Indian Tribe	

CASH AND IN-KIND DONATIONS

Alaska Housing Finance Corporation	Kenai Elks
Alaska Mental Health Trust	Kenai Kennel Club
Arby's – Kenai and Soldotna	Kenai United Methodist Church
Bishop's Attic	KPAL
Central Peninsula Hospital	Midnight Son SDA Church
Christ Lutheran Church	Nikisti/Northstar United Methodist Church
Church of Jesus Christ of Latter-day Saints	Ninilchik Traditional Council
CICADA	Our Lady of Perpetual Help
City of Kenai – Mini Grant	Our Lady of the Angels
City of Soldotna – Mini Grant	Peninsula Bible Fellowship
Denali Family Dentistry	Soldotna Elks
Frontier Community Services	Soldotna Rotary Club
GCI	Soldotna United Methodist Church
Independent Living Center	Sweeney's Clothing

We sincerely apologize if we have missed any donor or volunteer

Endnote: Data was secured through the PHC event on January 26, 2022. Due to COVID participants had the option of calling in for services - that data is included in this report.

HOMER AREA

PROJECT HOMELESS CONNECT

2022 REPORT



No one deserves to lose hope.

The Homer Project Homeless Connect Steering Committee is proud to report on our third annual Project Homeless Connect (PHC) event held on January 26, 2022, in conjunction with the Kenai Peninsula's 11th Annual Project Homeless Connect. The success of this event was due to the collaborative effort between service providers from the public and non-profit sectors, local businesses, and volunteer community members.

Population Served

There were 63 individuals who attended the PHC event in Homer and Anchor Point. A total of 54 people participated in the Intake process, 33 in Homer and 21 in Anchor Point. Overall there were 70 individuals represented in the Intakes. Of the 28 participants who completed the Exit Survey, 19 reported this was their first time attending a PHC event.

Veteran Status

	Frequency	Percent
Yes	6	8.6%
No	64	91.4%
Don't know	0	0%
Refused	0	0%
Total	70	100%

Age

	Frequency	Percent
13 years and under	10	14%
14 years – 17 years	2	2.8%
18 years – 24 years	3	4%
25 years – 44 years	22	32%
45 years – 64 years	27	39%
65 years and over	3	4%
Don't know	1	1.4%
Refused	2	2.8%
Total	70	100%

Race

	Frequency	Percent
American Indian/Alaska Native	10	14%
Asian/Asian American	0	0%
Black/African American/African	0	0%
Native Hawaiian/Pacific Islander	0	0%
White	54	76%

Don't know	0	0%
Refused	7	10%
Total	71*	100%

**Percentages above are based on the total number of responses. While there were only 70 responses, a participant(s) may have identified with more than one Race.*

Ethnicity

	Frequency	Percent
Non Hispanic/Non Latino	54	77%
Hispanic/Latino	2	3%
Don't know	0	0%
Refused	14	20%
Total	70	100%

Gender

	Frequency	Percent
Female	28	40%
Male	41	58.6%
A gender other than singularly female or male	0	0%
Transgender	0	0%
Questioning	0	0%
Don't know	0	0%
Refused	1	1.4%
Total	70	100%

Do you have any disabilities? (Self-reported)

	Frequency	Percent
Yes	19	27%
No	46	66%
Don't know	2	3%
Refused	3	4%
Total	70	100%

Disabling Conditions (Self-reported)

	Frequency	Percent
Alzheimer's/Related Dementias	0	0%
Chronic Alcoholism/Substance use disorder	1	3.4%
Intellectual/Developmental Disability	2	7.3%
Mental Illness	3	11%

Traumatic Brain Injury	4	15%
Physical Health Problem	6	22%
Other	2	7.3%
Don't know	4	15%
Refused	5	19%
Total	27*	100%

**Percentages above are based on the total number of Disabling Conditions identified by 21 individuals who disclosed one or more condition. There were 46 individuals who reported having no conditions, and 3 who refused to answer, for a total of 70 responses.*

Alaska Regional Corporation/Tribal Affiliation

	Frequency	Percent
Not Affiliated	53	76%
Bering Straits Native	0	0%
Cook Inlet Regional	1	1.4%
Sealaksa	0	0%
Ahtna	0	0%
Bristol Bay Native	0	0%
Doyon Limited	0	0%
13th Regional	0	0%
Aleut	0	0%
Calista	0	0%
Koniag	1	1.4%
Arctic Slope Regional	0	0%
Chugach Alaska	0	0%
NANA Regional	0	0%
Don't know	3	3.8%
Refused	11	16%
Other	1	1.4%
Total	70	100%

Sexual / Relationship Orientation

	Frequency	Percent
Heterosexual/Straight	50	85%
Gay	0	0%
Lesbian	0	0%
Bisexual	1	1.5%
Questioning/Unsure	0	0%
Aromantic	0	0%
Asexual	1	1.5%
Demisexual	0	0%
Pansexual	0	0%
Queer	0	0%
Other	0	0%
Don't know	0	0%

Refused	7	12%
Total	59*	100%

**Percentages above are based on the total number of responses. Non-Head of Household and minors were not asked this question.*

Where did you sleep last night?

	Frequency	Percent
Homeless Situation:	11	20%
Institutional Situation:	0	0%
Temporary or Permanent Housing Situation:	43	78.2%
Don't know	0	0%
Refused	1	1.8%
Total	55*	100%

**Percentages above are based on the total number of responses. Non-Head of Household and minors were not asked this question.*

How long have you been staying there?

	Frequency	Percent
One night or less	0	0%
Two to six nights	0	0%
1 week or more (less 1 month)	1	3.3%
1 month or more (less 90 days)	4	14%
90 days or more (less 1 year)	8	27.4%
One year or more	15	52%
Don't know	1	3.3%
Refused	0	0%
Total	29*	100%

**Percentages above are based on the total number of responses. Non-Head of Household and minors were not asked this question.*

When was the last time you were in stable housing of some kind?

	Frequency	Percent
Less than one year	11	42.4%
One year	1	3.8%
Two years	4	15.4%
Three years	4	15.4%
Four years	1	4%
Five years	0	0%
More than five years	5	19%
Don't know	0	0%
Refused	0	0%
Total	26*	100%

**Percentages above are based on the total number of responses. Non-Head of Household and minors were not asked this question.*

How many separate episodes of homelessness have you experienced in the past 3 years?

	Frequency	Percent
One time	6	17.4%
Two times	8	23.6%
Three times	4	12%
Four or more times	6	17.4%
Don't know	7	20.6%
Refused	3	9%
Total	34*	100%

**Percentages above are based on the total number of responses. Non-Head of Household and minors were not asked this question.*

How many total months have you been homeless in the past 3 years?

	Frequency	Percent
One month	5	14%
Two months	3	8%
Three months	6	17%
Four months	1	2.6%
Five months	0	0%
Six months	0	0%
Seven months	0	0%
Eight months	0	0%
Nine months	0	0%
Ten months	0	0%
Eleven months	0	0%
Twelve months	2	5.5%
More than twelve months	7	19.4%
Don't know	10	28%
Refused	2	5.5%
Total	36*	100%

**Percentages above are based on the total number of responses. Non-Head of Household and minors were not asked this question.*

Participant Needs

This year's Shopping List was based on the most popular items distributed/requested at last year's event, and the goods either purchased or donated based on cash and in-kind donations. The following is the list along with the total number of each item that was distributed:

Homer Area Project Homeless Connect Drive-Through Shopping List

47	Backpack
39	Food Box
46	Snack Bag

50	Hygiene Kit – hand towel, washcloth, soap, shampoo, deodorant, toothbrush, toothpaste, clippers, comb, band aids
50	Comfort Care Pack – socks, hand/foot warmers, hand sanitizer, face masks, flashlight, space blanket, lotion
17	Feminine Hygiene Products
7	Condoms
20	Dog Food
14	Cat Food
43	Sleeping Bag
41	Blanket
21	Tent
18	Tarp
26	Utensil pack
14	Narcan Kit
4	Medication disposal bag
17	Reflective vest
15	Men's Hat
20	Men's Gloves
8	Women's Hat
12	Women's Gloves
15	Scarf
0	Child's Hat
2	Child's Gloves
1	Child's Scarf
10	Socks
14	Plastic Poncho
12	COVID Home Test Kit
7	Diapers/Wipes
0	Formula/Baby Food
2	Taxi Voucher (provided for ride to and from PHC event)
24	Clothing Voucher (Homer Thrift, Salvation Army, Helping Hands, PJ's Thrift Store)
14	Laundry/Shower Voucher (Cheeky Moose)

Participant Exit Survey

Responses from 28 completed Exit Surveys:

	Yes	No	Somewhat
The event was helpful to me.	27	0	1
I felt respected and supported.	28	0	0
Was this your first Project Homeless Connect?	19	9	n/a

Participant Exit Questions

How many are in your household?

	Frequency	Percent
13 years and under	4	9.5%
14 years – 24 years	5	12%
25 years and over	33	78.5%
Total	42	100%

What items or services were most helpful?

- 8 – Everything
- 4 – Food
- 4 – Sleeping bag
- 2 – Blankets
- 2 – Gloves
- 2 – Flashlight/Headlamp
- 2 – Warm clothing
- 1 – Socks
- 1 – Pet food
- 1 – Covid test
- 1 – Location
- 1 – Help with rent
- 1 – Backpack
- 1 – Laundry voucher

Were there any items or services you needed that were not provided?

- 3 – Gas cards
- 2 – Cleaning Supplies
- 1 – Housing assistance
- 1 – Shower Voucher
- 1 – Food Stamp assistance
- 1 – Healthcare services

Vendors

Homer In-Person Vendors

Alaska Division of Public Assistance	Independent Living Center
Alcoholics/Narcotics Anonymous	Kachemak Bay Family Planning Clinic
All Things Addiction Coalition	KPBSD Students in Transition
Cook Inlet Council on Alcohol & Drug Abuse	South Peninsula Behavioral Health Services
Homer Community Food Pantry	South Peninsula Hospital
Homer Public Health Center	

Anchor Point In-Person Vendors

Anchor Point Community Food Pantry	Seldovia Village Tribe – Medicaid sign up
KPBSD Students in Transition	South Peninsula Hospital
Ninilchik Traditional Council Health Services	

The following organizations provided info, which was included in the Information Packets distributed to participants who chose the drive-through only option:

907 Vets	Seldovia Village Tribe Veterans Services
Homer Community Resource List	South Peninsula Haven House
Independent Living Center	Sprout Family Services
Kenai Peninsula College – Adult Education and Skills	Supplemental Nutrition Assistance Program (SNAP)
Safe Families for Children	Veteran’s Affairs
Seldovia Village Tribe Health & Wellness	Women, Infants, and Children Program (WIC)

Volunteers

Homer Project Homeless Connect Steering Committee:

Monica Anderson	Claudia Haines
Lindsey Collins	Cinda Martin
Mary Darbonne	Missy Martin
Derotha Ferarro	Dana Roberts
Abby Ferrer	Lisa Talbott
Annie Garay	

Our gratitude and thanks to the volunteers and donors who helped make this event possible!

Event Volunteers

Rick Abboud	Ronnie Leach
Kyle Darbonne	Dan Lush
Jeffrey Eide	Shannon McBride Morin
Rick Hoover	Sierra Moskios
Karen Howorth	Deb Schmidt
Lia Jacobsen	Dean Sundmark
Kerianna Lasiter	Donna Vukich

Cash and In-Kind Donations

Alaska Housing Finance Corporation	Kachemak Bay Family Planning Clinic
Central Peninsula General Hospital	Kachemak Bay Rotary
Cinda Martin	Kenai Peninsula Food Bank
Homer Animal Friends	Kenai Peninsula Project Homeless Connect

Homer Community Food Pantry	Safe Families for Children Homer
Homer Emblem Club #350	Salvation Army
Homer Thrift	Seldovia Village Tribe
Homer United Methodist Church	South Peninsula Haven House
Independent Living Center	South Peninsula Hospital

We sincerely apologize if we have missed any donor or volunteer.

Endnote: Data was secured through the Homer Area Project Homeless Connect event held in Homer and Anchor Point on January 26, 2022. Participants may have called in for services or received services by proxy; that data is included in this report.

**SEWARD CARES
PROJECT HOMELESS CONNECT
2022 REPORT**



The Seward Cares Steering Committee is proud to report on our Third Annual Seward Cares - a Project Homeless Connect Event hosted on January 27, 2022, as part of the Kenai Peninsula's 11th Annual Project Homeless Connect. The success of this event was due to the collaborative effort between service providers from the public and non-profit sector, local businesses, and volunteer community members.

The following organizations provided brochures, flyers and resources which were included in the Information Packets distributed at this year's walk-through event:

Alaska Housing	Qutekcak Native Tribe
Seward Community Health Center	Seward Prevention Coalition
Providence Medical Center	Independent Living Center
Seward Senior Center	Seaview Community Services
The Closet Ministries	American Legion
GCI	Seward Homeless Connection
Students In Transition	Public Health

Population Served

There were 49 individuals who attended the walk-through SC event in Seward and 52 surveys filled out.

Ages

	Frequency	Percent
0-19	1	2%
20-29	7	13%
30-39	8	15%
40-49	8	15%
50-59	13	25%
60-69	5	10%
70-79	7	13%
No Answer	3	6%
Total	52	100%

Veteran Status

	Frequency	Percent
Yes	5	10%
No	46	88%
Don't know	0	0%
Refused	1	2%
Total	52	100%

Primary Race

	Frequency	Percent
American Indian/Alaska Native	17	33%
Asian	1	2%
Black/ African American	2	4%
Native Hawaiian/Pacific Islander	1	2%
White	28	54%
Don't know	0	0%
Refused	3	5%
Total	52	100%

Ethnicity

	Frequency	Percent
Non Hispanic/Non Latino	42	81%
Hispanic/Latino	3	5%
Don't know	0	0%
Refused	7	13%
Total	52	100%

Gender

	Frequency	Percent
Female	23	44%
Male	28	54%
A gender other than	0	0%
Transgender	0	0%
Questioning	0	0%

Don't know	0	0%
Refused	1	2%
Total	52	100%

Disabilities?

	Frequency	Percent
Yes	22	42%
No	25	48%
Client doesn't know	1	2%
Client refused	4	8%
Total	52	100%

Alaska Disabling Conditions?

	Frequency	Percent
Alzheimer's Disease- Related	1	2%
Chronic Alcohol or other Sub	0	0%
Intellectual or Development	4	8%
Mental Illness	2	4%
Traumatic Brain Injuries	1	2%
Client Doesn't Know	2	4%
Client Refused	42	81%
Total	52	100%

Alaska Native Regional Corporations?

	Frequency	Percent
Not Affiliated	18	35%
Bering Straits Native	2	4%
Cook Inlet Regional	1	2%
Sealaska	3	6%
Ahtna	0	0%
Bristol Bay Native	3	6%
Doyon Limited	5	10%
13 th Regional	0	0%
Aleut	0	0%
Calista	0	0%
Koniag	0	0%

Article Slope Regional	0	0%
Chugach Alaska	2	4%
NANA Regional	0	0%
Client Doesn't Know	0	0%
Client Refused	18	35%
Total	52	100%

Sexual / Relationship Orientation

	Frequency	Percent
Heterosexual / Straight	44	85%
Gay	0	0%
Lesbian	0	0%
Bisexual	0	0%
Questioning/Unsure	0	0%
Aromantic	0	0%
Asexual	0	0%
Demisexual	0	0%
Pansexual	0	0%
Queer	0	0%
Other	0	0%
Client Doesn't Know	0	0%
Client Refused	8	15%
Total	52	100%

Prior Living Situation (Where Did You Stay Last Night?)

	Frequency	Percent
Homeless Situation	8	15%
Institutional Situation	1	2%
Temporary or Permanent	36	69%
No Answer	7	13%
Total	52	100%

Prior Living Situation Homeless Situation (how long)?

	Frequency	Percent
One night or less	0	0%
Two to six nights	0	0%
1 week or more (less 1 month)	1	2%
1 month or more (less 90 days)	1	2%
90 days or more (less 1 year)	1	2%
One year or more	1	2%
Don't know	0	0%
Refused or No Answer	48	92%
Total	52	100%

Homeless Defined as: Place not meant for people to live (vehicle, no running water and/or heat, tent, etc.), Emergency shelter, Hotel/motel paid by a shelter.

Prior Living Situation Institutional Situation (how long)?

	Frequency	Percent
One night or less	0	0%
Two to six nights	0	0%
1 week or more (less 1 month)	0	0%
1 month or more (less 90 days)	0	0%
90 days or more (less 1 year)	0	0%
One year or more	1	2%
Don't know	0	0%
Refused or No Answer	51	98%
Total	52	100%

Institutional Situation Defined: Foster care home, Group home, Hospital/residential medical facility, Jail/prison, Substance abuse treatment/detox center, Juvenile detention, Long term care facility/nursing home, Psychiatric hospital.

Prior Living Situation Temporary or Permanent Situation (how long)?

	Frequency	Percent
One night or less	0	0%
Two to six nights	0	0%
1 week or more (less 1 month)	0	0%
1 month or more (less 90 days)	1	2%

90 days or more (less 1 year)	3	6%
One year or more	4	8%
Don't know	0	0%
Refused	44	85%
Total	52	100%

Temporary or Permanent Defined as: Staying with friends or family, Residential/halfway house, Hotel paid by self, Friend or family, Transitional housing facility, Home owned, no subsidy, Home owned with subsidy, Rental with subsidy or voucher, Rental, no subsidy or voucher, Public housing unit.

When was the last time you were in stable housing of some kind?

	Frequency	Percent
None	14	27%
Less than one year	3	6%
One year	3	6%
Two years	5	10%
Three years	1	2%
Four years	2	4%
Five years	0	0%
More than five years	1	2%
Don't know/Refused	22	42%
Total	52	100%

In past 3 years, time experienced homelessness (with breaks between/)?

	Frequency	Percent
None	0	0%
Onetime	13	25%
Two times	3	6%
Three times	3	6%
Four or more times	5	10%
Don't know	3	6%
Refused	6	11%
Did not answer	19	36%
Total	52	100%

In the past 3 years, within how many months experienced homelessness?

	Frequency	Percent
None	0	0%
One month	4	8%
Two months	2	4%
Three months	4	8%
Four months	2	4%
Five months	0	0%
Six months	1	2%
Seven months	2	4%
Eight months	0	0%
Nine months	5	10%
Ten months	0	0%
Eleven months	0	0%
Twelve months	0	0%
More than twelve months	7	13%
Don't know	1	2%
Refused	4	8%
Did not answer	20	38%
Total	52	100%

Public Health and Seward Community Health Center

Covid-19 Vaccines - 2 Pfizer adult
 35 Narcan kits distributed to 17 community members
 40 Covid test kits
 5 blood pressure checks

Donations and Purchases

Donations	Purchases
Backpacks	Subway Gift Cards
Hoodies	Hats
Dental Care Kits	Gloves
Emergency Blankets	Socks
Backpacks	Hair Cuts
Personal Care Kits	
T-Shirts	
Blankets	
Toiletries	
Water Bottles	
Ice Cleats	
Reusable Shopping Bags/ Totes	
Photos	
Snacks	
1 st Aid Kits	
Hand Warmers	

Seward Cares Steering Committee:

David Smith	Christiana Smith
France Azzad-Smith	Amy Mullens
Melanie Smith	Marissa Beck

Our gratitude and thanks to all the volunteers and donors who helped make this event possible!

Endnote: Data was secured through the Seward Cares event held in Seward on January 27, 2021.

Introduced by:	Mayor
Date:	02/15/22
Hearing:	03/01/22
Action:	
Vote:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2021-19-37**

**AN ORDINANCE APPROPRIATING FUNDING FROM THE NIKISKI FIRE SERVICE
AREA CAPITAL PROJECT FUND FOR THE INSTALLATION OF A WATER
TREATMENT SYSTEM AT NIKISKI FIRE STATION #3**

- WHEREAS,** the Nikiski Fire Service area completed the construction of its Station #3 facility in 2021; and
- WHEREAS,** during the construction of the facility, a potable water well was installed to provide the station with its domestic water needs; and
- WHEREAS,** in the process of developing the well it was discovered that the station would need a water treatment system; and
- WHEREAS,** the cost for the installation of the water treatment system will exceed the available project budget by \$10,000; and
- WHEREAS,** additional funds, in the amount of \$10,000, will need to be appropriated from the Nikiski Fire Service Area Capital Project Fund fund balance and added to the project in order to complete the necessary scope of work; and
- WHEREAS,** the Nikiski Fire Service Area has sufficient funds in its Capital Project Fund fund balance to cover the cost of the water treatment system; and
- WHEREAS,** at its meeting held on February 9, 2022, the Nikiski Fire Service Area Board recommended approval by unanimous consent of this ordinance;

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

SECTION 1. Funds in the amount of \$10,000 are appropriated from the Nikiski Fire Service Area Capital Project Fund account number 441.27910 to account number 441.51110.19411.49999 for the purpose of completing the installation of a water treatment system at Nikiski Fire Station #3. The mayor is authorized to execute all documents necessary to effectuate this appropriation and complete the project.

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

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

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

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough

Purchasing & Contracting Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor *CP*

FROM: Trent Burnett, Nikiski Fire Chief *TB*
John Hedges, Purchasing & Contracting Director *JH*
Brandi Harbaugh, Finance Director *BH*

DATE: February 3, 2022

RE: Ordinance 2021-~~19-37~~, Appropriating Funding from the Nikiski Fire Service Area Capital Project Fund for the Installation of a Water Treatment System at Nikiski Fire Station #3 (Mayor)

The Nikiski Fire Service Area completed the construction of its Station #3 facility in 2021. During the construction of the facility, a potable water well was installed to provide the station with its domestic water needs. In the process of developing the well, it was discovered that due to the high mineral content of the available aquifers the station would need a water treatment system.

The project design team is currently working on engineering modifications to the facility and design of a water treatment system. The cost for the installation of the water treatment system will exceed the available project budget by \$10,000. These funds will need to be appropriated from the Nikiski Fire Capital Project Fund fund balance and added to the project in order to complete the necessary scope of work.

The Nikiski Fire Service Area has sufficient funds in its Capital Project Fund fund balance to cover the cost of the water treatment system.

Thank you for consideration of this appropriation.

FINANCE DEPARTMENT FUNDS/ACCOUNT VERIFIED	
Account:	<u>441.27910</u>
Amount:	<u>\$ 10,000.00</u>
By: <u><i>CP</i></u>	Date: <u>2/3/2022</u>

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

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

THRU: Johni Blankenship, Borough Clerk (B)

FROM: Michele Turner, Deputy Borough Clerk (MT)

DATE: March 1, 2022

RE: Ordinance 2021-19-37: Appropriating Funding from the Nikiski Fire Service Area Capital Project Fund for the Installation of a Water Treatment System at Nikiski Fire Station #3 (Mayor)

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

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

"WHEREAS, at its meeting held on February 9, 2022, the Nikiski Fire Service Area Board recommended approval by unanimous consent;"

Thank you.

Turner, Michele

From: Burnett, Trent
Sent: Thursday, February 10, 2022 11:52 AM
To: Turner, Michele
Cc: Hedges, John; White, Rhonda
Subject: Ordinance 2021-19-XX

Michele,

We had our regular scheduled board meeting last night and the board voted unanimously in favor of the referenced ordinance for transferring funds from the Nikiski Fire Service Area Capital Project Fund balance in the amount of \$10,000 for the installation of the water treatment system at Nikiski Fire Station #3.

Thank you,

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

Introduced by:	Mayor
Date:	02/15/22
Hearing:	03/01/22
Action:	
Vote:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2021-19-38**

**AN ORDINANCE APPROPRIATING FUNDS FROM THE SOUTH PENINSULA
HOSPITAL SERVICE AREA PLANT REPLACEMENT AND EXPANSION FUND FOR
CAPITAL REPAIRS FOR THE PROPERTY LOCATED AT 203 WEST PIONEER
AVENUE, HOMER, ALASKA**

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

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

WHEREAS, the Borough, on behalf of the Service Area, recently purchased a medical office building located at 203 West Pioneer Avenue, Homer, Alaska, KPB Parcel number: 17514304 which houses its Home Health Department, Functional Medicine, Surgical Clinic, and Staff Training room; and

WHEREAS, pursuant to the Operating Agreement, Section 11, reportable maintenance projects are defined as Minor Maintenance Projects with a cost in excess of \$100,000 and all Major Maintenance projects; and

WHEREAS, pursuant to the Operating Agreement, Section 11, SPHI is required to notify the Borough Contract Administrator and Purchasing and Contracting Director in writing prior to commencing any work on reportable projects; and

WHEREAS, the building located at 203 West Pioneer Avenue, Homer, Alaska requires certain durable capital repairs to ensure long-term maintenance and protection of the physical property; and

WHEREAS, an inspection of the property was performed prior to purchase revealing the necessary repairs and a credit was provided by the seller toward the purchase price for half of the repair costs; and

WHEREAS, the necessary capital repairs were known at the time of the building's purchase and a mutually agreed upon purchase discount was negotiated between the buyer and seller; and

WHEREAS, the estimated costs of the repairs are approximately \$295,000; and

WHEREAS, the purchasing guidelines of the Borough require that a formal procurement process be followed for the aforementioned repairs; and

WHEREAS, there is currently \$10 million in the SPHI Unobligated Plant Replacement and Expansion Fund; and

WHEREAS, SPHI is requesting to use \$147,500 in Unobligated Plant Replacement and Expansion Funds and \$147,500 in SPHI Operating Cash to pay for these capital repairs; and

WHEREAS, at its regular meeting of January 20, 2022, the SPHI Board recommended approval through unanimous approval; and

WHEREAS, at its meeting on February 10, 2022, the South Kenai Peninsula Hospital Service Area Board recommended approval by the passage of SKPHSAB Resolution 2022-01;

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

SECTION 1. That funds in the amount of \$147,500 are appropriated from the South Peninsula Hospital Plant Replacement and Expansion Fund account number 491.20602 to account 491.81210.22SPR.49999 for capital repairs of the medical office building located at 203 West Pioneer Avenue, Homer, Alaska.

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 become effective immediately upon its enactment.

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

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough

Purchasing & Contracting Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor *CP*

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

DATE: February 3, 2022

RE: Ordinance 2021-19-38, Appropriating Funds from the South Peninsula Hospital Service Area Plant Replacement and Expansion Fund For Capital Repairs for the Property located at 203 West Pioneer Avenue, Homer, Alaska (Mayor)

The Kenai Peninsula Borough ("Borough") owns and provides for the operation of South Peninsula Hospital ("Hospital") through the South Kenai Peninsula Hospital Service Area. South Peninsula Hospital Inc. ("SPHI") operates the hospital and other medical facilities by way of an Operating Agreement with the Borough.

The Borough has recently purchased the medical office building located at 203 West Pioneer Avenue Homer, Alaska, KPB Parcel number: 17514304 which houses the South Peninsula Hospitals, Home Health Department, Functional Medicine, Surgical Clinic, and Staff Training room (the "Facility").

As part of KPB's Land Management Department process, a building inspection was performed to evaluate the Facility's condition and identify any code related issues that may exist. In that process an inspection report identifying major and minor maintenance needs was provided to the Borough and SPHI. The inspection report included the need for a roof replacement, along with other minor site, mechanical, and electrical issues.

Subsequently, KPB Land Management, the Purchasing & Contracting Department, and the SPHI Administration developed an estimated value for the repair of the issues identified in the report. The closing cost of the Facility included a discount based on these repair estimates.

SPHI is requesting to appropriate \$147,500, from the South Peninsula Hospital Plant Replacement and Expansion fund (PREF), to provide for the durable capital

February 3, 2022
Page -2-
RE: O2021-19- 38

repairs identified in the purchasing process and ensure long term maintenance and protection of the physical property. SPHI is also proposing to use \$147,500 in operating funds in conjunction with the PREF funds to complete the durable capital repairs.

Your consideration of this ordinance is appreciated.

FINANCE DEPARTMENT FUNDS/ACCOUNT VERIFIED	
Account:	<u>491.20602</u>
Amount:	<u>\$ 147,500</u>
By: <u>CJ</u>	Date: <u>2/3/2022</u>

Introduced by:	Administration
Date:	January 26, 2022
Action:	Approved
Vote:	Yes - 8, No - 0, Excused – 2; Recused - 1

**SOUTH PENINSULA HOSPITAL
BOARD RESOLUTION
2022-01**

**A RESOLUTION OF THE SOUTH PENINSULA HOSPITAL BOARD OF DIRECTORS
APPROVING CAPITAL REPAIRS OF THE PROPERTY LOCATED AT 203 WEST
PIONEER AVENUE, HOMER AK 99603**

WHEREAS, South Peninsula Hospital (the Hospital) recently purchased a medical office building located at 203 West Pioneer Avenue, Homer, AK 99603, KPB Parcel number: 17514304 which houses its Home Health Department, Functional Medicine, Surgical Clinic, and Staff Training room, and

WHEREAS, that building requires certain durable capital repairs to ensure long-term maintenance and protection of the physical property, and

WHEREAS, an inspection of the property was performed prior to purchase revealing the necessary repairs and a credit was provided by the seller toward the purchase price for half of the repair costs; and

WHEREAS, SPH Administration has obtained an estimate for the capital repairs required, and

WHEREAS, the necessary capital repairs were known at the time of the building's purchase and a mutually agreed upon purchase discount was negotiated between the buyer and seller, and

WHEREAS, the estimated costs of the repairs are approximately \$295,000; and

WHEREAS, the purchasing guidelines of the Kenai Peninsula Borough require that a formal Request for Proposal be issued for the aforementioned repairs; and

WHEREAS, South Peninsula Hospital currently has \$10 million in Unobligated Plant Replacement and Expansion Funds; and

WHEREAS, SPH Administration would like to use approximately \$147,500 in Unobligated Plant Replacement and Expansion Funds and \$147,500 in SPH Operating Cash to pay for these capital repairs: and

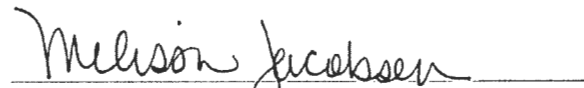
WHEREAS, the repairs were discussed at Finance Committee on January 20, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF SOUTH PENINSULA HOSPITAL:

1. That the South Peninsula Hospital Board of Directors approves the use of \$147,500 in Plant Replacement and Expansion Funds and \$147,500 in SPH Operating Cash to repair the property located at 203 West Pioneer Avenue, Homer, AK 99603.
2. That the South Peninsula Hospital Administration shall notify the Kenai Peninsula Borough Contract Administrator and Purchasing and Contracting Director and the South Kenai Peninsula Borough Service Area Board of this project.
3. That the South Peninsula Hospital Board of Directors shall submit this request to the South Kenai Peninsula Borough Service Area Board with a recommendation to approve their appropriation request for the use of Unobligated Plant Replacement and Expansion Funds.
4. That the South Peninsula Hospital Board of Directors shall request that the Borough Assembly appropriate \$147,500 of Unobligated Plant Replacement and Expansion Funds for the capital repairs of the property located at 203 W. Pioneer Ave, Homer, AK 99603.

PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF SOUTH PENINSULA AT ITS MEETING HELD ON THIS 26th DAY OF JANUARY, 2022.

ATTEST:


Melissa Jacobsen, Board Secretary


Kelly Cooper, Board President

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

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

THRU: Johni Blankenship, Borough Clerk (JB)

FROM: Michele Turner, Deputy Borough Clerk (MT)

DATE: March 1, 2022

RE: Ordinance 2021-19-38: Appropriating Funds from the South Peninsula Hospital Service Area Plant Replacement and Expansion Fund for Capital Repairs for the Property Located at 203 West Pioneer Avenue, Homer, Alaska (Mayor

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

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

"WHEREAS, at its meeting held on February 10, 2022, the South Kenai Peninsula Hospital Service Area Board recommended approval by the passage of SKPHSAB Resolution 2022-01;"

Thank you.

**SOUTH KENAI PENINSULA HOSPITAL
SERVICE AREA BOARD**

RESOLUTION 2022-01

**A Resolution of the South Kenai Peninsula Hospital
Service Area Board
Recommending Approval of Capital Repairs of the Property Located at
203 West Pioneer Avenue, Homer, AK 99603**

WHEREAS, the South Peninsula Hospital, Inc. (“SPH, Inc.”) operates the South Peninsula Hospital (“SPH”) pursuant to an Operating Agreement with the Kenai Peninsula Borough on behalf of the South Kenai Peninsula Hospital Service Area (“SKPHSA”); and

WHEREAS, South Peninsula Hospital, Inc. (SPH) recently purchased a medical office building located at 203 West Pioneer Avenue, Homer, AK 99603, KPB Parcel number: 17514304 which houses its Home Health Department, Functional Medicine, Surgical Clinic, and Staff Training room, and

WHEREAS, that building requires certain durable capital repairs to ensure long-term maintenance and protection of the physical property, and

WHEREAS, an inspection of the property was performed prior to purchase revealing the necessary repairs and a credit was provided by the seller toward the purchase price for half of the repair costs; and

WHEREAS, SPH Administration has obtained an estimate for the capital repairs required, and

WHEREAS, the necessary capital repairs were known at the time of the building’s purchase and a mutually agreed upon purchase discount was negotiated between the buyer and seller, and

WHEREAS, the estimated costs of the repairs are approximately \$295,000; and

WHEREAS, the purchasing guidelines of the Kenai Peninsula Borough require that a formal Request for Proposal be issued for the aforementioned repairs; and

WHEREAS, South Peninsula Hospital, Inc. currently has \$10 million in Unobligated Plant Replacement and Expansion Funds; and

WHEREAS, SPH Administration would like to use approximately \$147,500 in Unobligated Plant Replacement and Expansion Funds and \$147,500 in SPH Operating Cash to pay for these capital repairs; and

WHEREAS, the repairs were reviewed and approved by the SPH Board of Directors Finance Committee on January 20, 2022; and

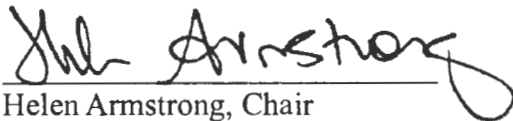
WHEREAS, the SPH, Inc. Board of Directors passed and adopted South Peninsula Hospital Board Resolution 2022-01 on January 26, 2022 to appropriate \$147,500 in Unobligated Plant Replacement and Expansion Funds and \$147,500 in SPH Operating Cash to pay for the capital repairs at 203 West Pioneer Avenue, Homer, AK 99603.

NOW, THEREFORE, BE IT RESOLVED BY THE SOUTH KENAI PENINSULA HOSPITAL SERVICE AREA BOARD:

The South Kenai Peninsula Hospital Service Area Board recommends approval of the use of \$147,500 of unobligated Plant Replacement and Expansion Funds and \$147,500 in SPH Operating Cash to pay for the capital repairs at 203 West Pioneer Avenue, Homer, AK 99603.

PASSED AND ADOPTED BY THE SOUTH KENAI PENINSULA HOSPITAL SERVICE AREA BOARD AT ITS MEETING HELD ON THIS 10TH DAY OF FEBRUARY 2022.

ATTEST:

A handwritten signature in black ink, appearing to read 'Helen Armstrong', is written over a horizontal line.

Helen Armstrong, Chair

South Kenai Peninsula Hospital Service Area Board

February 10, 2022

Introduced by: Chesley
Date: 02/01/22
Hearing: 03/01/22
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2022-02**

**AN ORDINANCE ENACTING KPB 2.40.110 AND KPB 2.40.120 AUTHORIZING THE
PLANNING COMMISSION TO ADOPT BYLAWS AND DEFINING QUORUM**

WHEREAS, current code does not authorize the planning commission to adopt bylaws; and

WHEREAS, the code authorizes other bodies to adopt bylaws and regulations governing the conduct of their affairs so long as their bylaws are procedural in nature and do not conflict with the rules, ordinances, statutes and regulations governing them; and

WHEREAS, current code does not define a quorum for the planning commission; and

WHEREAS, in the absence of a definition of quorum under borough code, and due to recent changes to membership, the planning commission has necessarily been taking action based on quorum being a majority of the members of the commission who have been appointed by the mayor and confirmed by the assembly; and

WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of February 28, 2022 recommended approval by unanimous consent;

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

SECTION 1. That KPB 2.40.110 is hereby added as follows:

2.40.110. Bylaws.

The planning commission may adopt bylaws governing the conduct of its affairs so long as these bylaws are procedural in nature and do not conflict with the rules, ordinances, statutes and regulations governing the planning commission. The commission may establish various committees and appoint members to them.

SECTION 2. That KPB 2.40.120 is hereby amended as follows:

2.40.120. Quorum.

A majority of the members of the commission who have been appointed by the mayor and confirmed by the assembly shall constitute a quorum. All commission actions shall be by vote of a majority of the members of the commission who are present and voting. No hearing may be held or decision made in the absence of a

quorum, except that a member disqualified by law from voting on a question may be considered present for purposes of constituting a quorum.

SECTION 3. This ordinance is effective immediately upon enactment.

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

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Assembly

MEMORANDUM

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

FROM: Lane Chesley, Assembly Member *U*

DATE: January 18, 2022

SUBJECT: Ordinance 2022-02, Enacting KPB 2.40.110 and 2.40.120 Authorizing the Planning Commission to Adopt Bylaws and Defining Quorum (Chesley)

This ordinance amends KPB 2.40 by adding 2.40.110 to authorize the planning commission to adopt bylaws, and further amends KPB 2.40 by adding 2.40.120 to define "quorum" for the purposes of the planning commission's transaction of business.

Your consideration of this ordinance is appreciated.

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

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

THRU: Johni Blankenship, Borough Clerk (JB)

FROM: Michele Turner, Deputy Borough Clerk (MT)

DATE: March 1, 2022

RE: Ordinance 2022-02: Enacting KPB 2.40.110 and KPB 2.40.120
Authorizing the Planning Commission to Adopt Bylaws and Defining
Quorum (Chesley)

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.

Pursuant to the Planning Commission's actions at their meeting February 28, 2022, the last Whereas clause has been updated to read:

"WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of February 28, 2022 recommended approval by unanimous consent;"

Thank you.

Turner, Michele

From: Shirnberg, Ann
Sent: Tuesday, March 1, 2022 8:43 AM
To: Blankenship, Johni; Turner, Michele
Subject: Ordinance 2022-02

Importance: High

Good Morning,

The planning commission at their regularly scheduled meeting of February 28, 2022 unanimously (9-Yes, 1 Absent) recommended that the assembly adopt Ordinance 2022-02 enacting KPB 2.40.110 & KPB 2.40.120 authorizing the planning commission to adopt bylaws and defining quorum.

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.

Introduced by:

Mayor

Date:

03/01/22

Action:

Vote:

**KENAI PENINSULA BOROUGH
RESOLUTION 2022-015**

**A RESOLUTION RECOGNIZING AND APPROVING THE TRANSFER OF FIRE AND
EMERGENCY RELATED EQUIPMENT FROM NINILCHIK EMERGENCY
SERVICES, INC. TO THE KENAI PENINSULA BOROUGH ON BEHALF OF THE
WESTERN EMERGENCY SERVICE AREA**

WHEREAS, Ordinance 2020-31 expanded the Anchor Point Fire and Emergency Medical Service Area (APFEMSA) boundaries to include the Ninilchik area subject to approval by the voters residing in APFEMSA and also by the voters residing in the proposed expanded boundaries outside of APFEMSA in the October 6, 2020 regular borough election; and

WHEREAS, the voters in both areas approved the expansion of APFEMSA as described in ordinance 2020-31; and

WHEREAS, Section 8 of ordinance 2020-31 also provided that the ordinance would only take effect if the Ninilchik Emergency Services (NES) non-profit organization transferred free and clear title, ownership, and possession of all real and personal property located in or obtained for use at or by the Ninilchik Fire Department to the borough on behalf of the newly expanded fire and emergency medical service area now known as the Western Emergency Service Area (WESA) on or before January 31, 2021, which was later extended to April 20, 2021 by Ordinance 2020-49, and all authorized transfers took place by February 22, 2021; and

WHEREAS, such transfers did take place as planned; and

WHEREAS, NES, after said transfer of real and personal property assets, determined that it was appropriate to liquidate its remaining financial assets and dissolve its non-profit, but that prior to the dissolution it would benefit WESA if NES financial resources were used to purchase additional fire and emergency related equipment needed by WESA to properly perform its enlarged life, safety and health mission in its expanded boundaries; and

WHEREAS, accordingly, NES purchased various items needed by WESA and transferred said items to KPB on behalf of WESA, as shown in Attachment A; and

WHEREAS, the WESA board recommended the approval of this resolution at its meeting on February 9, 2022; and

WHEREAS, the best interests of the Borough would be served by formally recognizing the transfer of these assets to the Kenai Peninsula Borough on behalf of WESA;

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

SECTION 1. That the assembly and the mayor, on behalf of the Kenai Peninsula Borough, express their appreciation to NES for its generosity in using its remaining financial assets to purchase and provide fire and emergency equipment beyond that which was provided for in the initial agreement.

SECTION 2. That the mayor is authorized to accept the transfer of the items listed in Attachment A and is further authorized to execute any documents necessary to effectuate the transfer of items obtained by NES for the use of WESA as set forth in Attachment A and incorporated herein by reference.

SECTION 3. This resolution is effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 1ST DAY MARCH, 2022.

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough Western Emergency Service Area

MEMORANDUM

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

THRU: Charlie Pierce, Mayor *CP*

FROM: Jon Marsh, Fire Chief, Western Emergency Service Area *JM*

DATE: February 16, 2022

RE: Resolution 2022-015, Recognizing and Approving the Transfer of Fire and Emergency Related Equipment from Ninilchik Emergency Services, Inc. to the Kenai Peninsula Borough on Behalf of the Western Emergency Service Area (Mayor)

With the enactment of Ordinances 2020-31 and 2020-49, the Ninilchik Emergency Services (NES) non-profit organization transferred free and clear title, ownership, and possession of all real and personal property located at or obtained for use by the Ninilchik Fire Department to the borough on behalf of the newly expanded fire and emergency medical service area now known as the Western Emergency Service Area (WESA).

After the transfer of real and personal property assets on February 22, 2021, NES determined that it was appropriate to liquidate its remaining financial assets and dissolve its non-profit, but that prior to the dissolution it would benefit WESA if NES financial resources were used to purchase additional fire and emergency related equipment needed by WESA to properly perform its enlarged life, safety and health mission in its expanded boundaries. Accordingly, NES purchased various items needed by WESA and transferred these items to KPB on behalf of WESA, as shown in Attachment A which is incorporated herein by reference.

The WESA board recommended approval by the assembly of this resolution at its meeting on February 9, 2022.

The best interests of the borough would be served by formally recognizing the transfer of these assets to the Kenai Peninsula Borough (KPB) on behalf of WESA and by thanking NES for its generous contributions.

Your consideration of this resolution is appreciated.

Attachment A				
to Assembly Resolution Recognizing and Approving the Transfer of Fire and Emergency Related Equipment from Ninilchik Emergency Services, Inc. to the KPB on behalf of the Western Emergency Service Area				
Quantity	Item	Cost	Received	Notes
3	Globe G-XCEL Turnout Pants	\$3,540.00	2/16/2021	
3	Globe G-XCEL Turnout Jackets	\$4,359.00	2/16/2021	
1	Sensit HXG-3P Combustible Gas Detector	\$1,011.00	2/17/2021	
1	SKED Rescue System & Rope/Pulley Kit	\$4,557.60	2/17/2021	
2	QRAE 3 Four Gas Monitors & Calibration Kit	\$3,965.00	2/17/2021	
2	Medical Bags	\$608.00	2/25/2021	
10	Patient Quilts	\$1,179.90	2/25/2021	
5	O2 Bags	\$1,180.00	2/25/2021	
2	Vacuum Splint Sets	\$1,478.00	3/3/2021	
2	Laerdal Suction Units	\$1,778.00	3/3/2021	
4	Reeves Stretchers	\$1,316.00	3/3/2021	
2	Junctional Tourniquet Deployment Modules	\$712.00	3/3/2021	
1	Globe Structure Fire Boots	\$410.45	3/12/2021	
4	1.5" TFT Nozzles	\$4,300.00	9/9/2021	
1	2002 Haul Trailer	\$6,250.00	12/10/2021	VIN: 16HGB15202U028571
1	2022 Ski-Doo Skandic Snow Machine	\$15,821.00	12/15/2021	VIN: 2BPSANNA1NV000517
1950 Feet	3" Fire Hose	\$13,086.34	12/16/2021	
1800 Feet	2.5 " Fire Hose	\$8,792.68	12/16/2021	
2472 Feet	1.75" Fire Hose	\$9,085.24	12/16/2021	
2	Stryker Power Load Systems	\$50,170.85	Various	Received parts on various dates throught the year. Only one in service right now, second one in the process of being installed.
	Total	\$133,601.06		

Introduced by:	Johnson
Date:	06/02/20
Hearing:	07/07/20
Action:	Enacted as Amended
Vote:	9 Yes, 0 No, 0 Absent
Date:	10/13/20
Action:	Ratified by the Voters at the 10/06/20 Election
Vote:	Proposition 1A: Yes 319; 67.58% No 153; 32.42% Proposition 1B: Yes 472; 66.95% No 233; 33.05%

KENAI PENINSULA BOROUGH ORDINANCE 2020-31

AN ORDINANCE EXPANDING THE ANCHOR POINT FIRE AND EMERGENCY MEDICAL SERVICE AREA BOUNDARIES TO INCLUDE THE NINILCHIK AREA

- WHEREAS,** since fire and emergency medical service area boundaries should reflect the usage of the communities they serve, it makes sense to examine them periodically to allow for changes; and
- WHEREAS,** Ninilchik Emergency Services ("NES") has provided fire protection and emergency medical services to the Ninilchik community since 1978; and
- WHEREAS,** the Anchor Point Fire and Emergency Medical Service Area ("APFEMSA") was established in 1983 to provide fire protection and ambulance service to the Anchor Point area; and
- WHEREAS,** both NES and APFEMSA work diligently to provide fire and emergency protection to their communities; and
- WHEREAS,** the APFEMSA board has tried to expand their services and increase staffing for the fire station in an effort to better serve their community; and
- WHEREAS,** recent changes in Ninilchik have highlighted the need for Ninilchik to expand its fire and emergency services; and
- WHEREAS,** both Ninilchik and Anchor Point have a long and documented history of working together and assisting each other during times of need; and
- WHEREAS,** forming an independent fire and emergency medical service area would be cost prohibitive in Ninilchik; and

WHEREAS funding for Ninilchik independently is estimated to necessitate a mil rate of 5.75 in order to provide for a staff of three plus sufficient funding for basic equipment and minimal fund balance; and

WHEREAS, the two communities would be able to leverage their years of expertise and training to create a more comprehensive coverage area benefiting both communities; and

WHEREAS, on March 17, 2020, the Ninilchik-Anchor Point Joint Service Area Work Group ("NAPJSAWG") was established by KPB resolution 2020-025 as a result of the February 6, 2020 town hall meeting in Ninilchik; and

WHEREAS the group was tasked with researching and making recommendations regarding whether Ninilchik should have its own service area, attempt to join APFEMSA, or try to make adjustments and continue to operate its current volunteer service; and

WHEREAS at its May 15, 2020 meeting the NAPJSAWG unanimously recommended that a question be placed on the October 6, 2020 ballot proposing to combine APFEMSA with the area currently being served by NES;

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

SECTION 1. That the title of KPB Chapter 16.60 is hereby amended as follows:

**CHAPTER 16.60. [ANCHOR POINT FIRE AND EMERGENCY MEDICAL]
WESTERN EMERGENCY SERVICE AREA**

SECTION 2. That KPB 16.60.010 is hereby replaced as follows:

16.60.010. Established Boundaries

There is established a service area within the borough, designated the "[ANCHOR POINT FIRE AND EMERGENCY MEDICAL] Western Emergency Service Area," including that portion of the borough described as follows:

All of the following referenced to the Seward Meridian, Alaska:

Commencing at the section corner common to sections 2, 3, 10, and 11, T3S, R16W;

Thence east along the section line to the range line common to R15W and R16W;

Thence north along said range line to the baseline at the northwest corner of T1S, R15W;

Thence east along the baseline to the southeast corner of T1N, R15W;

Thence north along the range line common to R14W and R15W to the northeast corner T1N, R15W;

Thence east along the township line to the corner common to Sections 32 and 33, T2N, R11W, and Sections 4 and 5, T1N, R11W;

Thence south along the section line to the intersection with the baseline;

Thence east along the baseline to the northeast corner Section 2, T1S, R11W;

Thence south along the section line to the corner common to Sections 35 & 36, T2S, R11W, and Sections 1 and 2, T3S, R11W;

Thence west along the township line common to T2S and T3S to the corner of T2S, R11 and 12W, and T3S, R11 and 12W;

Thence south along the range line common to R11W and R12W to the corner of Sections 30 and 31, T4S, R11W, and Sections 25 and 36, T4S, R12W;

Thence continuing south along said range line to the point of intersection of the line common to Section 31, T4S, R11W, and Section 36, T4S, R12W and the thread of the Anchor River;

Thence westerly along the thread of the Anchor River to the point of intersection with the line common to Sections 28 and 29, T5S, R14W;

Thence south along said common line and continuing along the line common to Sections 32 and 33, T5S, R14W, to the north 1/16 th corner common to said Sections 32 and 33, T5S, R14W;

Thence west along the north 1/16 th line through Section 32 and continuing through Section 31 to the north 1/16 th corner of Section 31 on the range line common to T5S, R14W and T5S, R15W;

Thence west along the north 1/16 th line through Section 36, T5S, R15W and continuing through Section 35, T5S, R15W to the Mean High Water of Cook Inlet;

Thence from the latitude of the intersection of the north 1/16 th line of Section 35, T5S, R15W and the MHW of Cook Inlet due west to the west edge of T5S, R15W;

Thence north along the line between R15W and R16W to the northwest corner of T5S, R15W;

Thence west along the line between T5S and T4S to the southwest corner of Section 35, T4S, R16W;

Thence north to the section corner common to sections 2, 3, 10, and 11, T3S, R16W, the true point of beginning.

Map Attached

SECTION 3. That KPB 16.60.020 is hereby amended as follows:

16.60.020. Board of Directors

- (a.) There is established a board of directors for the [ANCHOR POINT FIRE AND EMERGENCY MEDICAL] Western Emergency Service Area composed of [5] five members, two of whom shall be residents of Anchor Point, two of whom shall be residents of Ninilchik and one of whom may be a resident from either community. All members [WHO SHALL BE RESIDENTS OF THE SERVICE AREA AND] shall be appointed by the mayor and confirmed by the assembly. Up to one board member may also serve as a volunteer firefighter and/or emergency medical service provider for the service area without compensation except that which is ordinarily provided to such volunteers.
- (b.) The board shall meet periodically at regular and special meetings called by the Board. All meetings shall be open to the public as provided by law.

SECTION 4. That KPB 16.60.020 is hereby amended as follows:

16.60.090. Ambulance Billing

Revenues collected from ambulance billing by the [ANCHOR POINT FIRE AND EMERGENCY MEDICAL] Western Emergency Service Area as approved by the assembly pursuant to KPB 1.26.010 shall be recorded as revenue within that service area.

SECTION 5. Add a new section to KPB 16.60 as follows:

16.60.100. Mill Levy

No mill levy in excess of 2.95 mills shall be levied on behalf of the service area unless an increase is approved by the assembly during the budgetary process.

SECTION 6. That the following proposition shall be placed before the voters of the [ANCHOR POINT FIRE AND EMERGENCY MEDICAL] Western Emergency Service Area and the voters residing within the remaining areas described in section 2 of this ordinance at the regular election to be held on October 6, 2020:

PROPOSITION:

Shall the Kenai Peninsula Borough be authorized to exercise powers to provide fire protection and emergency medical services through the expansion of the Anchor Point Fire and Emergency Medical Service Area to include the Ninilchik area as defined by Section 2 of Ordinance 2020-31?

YES ☐ A yes vote approves the expansion of the Anchor Point Fire and Emergency Medical Services Area into the Ninilchik Area.

NO ☐ A no vote would prohibit the expansion of the Anchor Point Fire and Emergency Medical Service Area into the Ninilchik area.


SECTION 7. That section 5 of this ordinance takes effect immediately upon enactment of this ordinance. Sections 1, 2, 3 4, 6 and 7 of this ordinance shall take effect only upon approval by the majority of the voters residing in both the Anchor Point Fire Service Area and the majority of the voters residing in the proposed expanded boundaries area outside the boundaries of the Anchor Point Fire Service Area voting on the question during the regular KPB election scheduled for October 6, 2020.

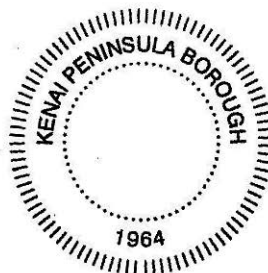
SECTION 8. That this ordinance shall also only take effect if the Ninilchik Emergency Services (NES) non-profit organization transfers free and clear title, ownership, and possession of all real and personal property located in or obtained for use at or by the Ninilchik Fire Department to the borough on behalf of the Anchor Point Ninilchik Fire and Emergency Medical Service Area on or before January 31, 2021.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF JULY, 2020.

ATTEST:

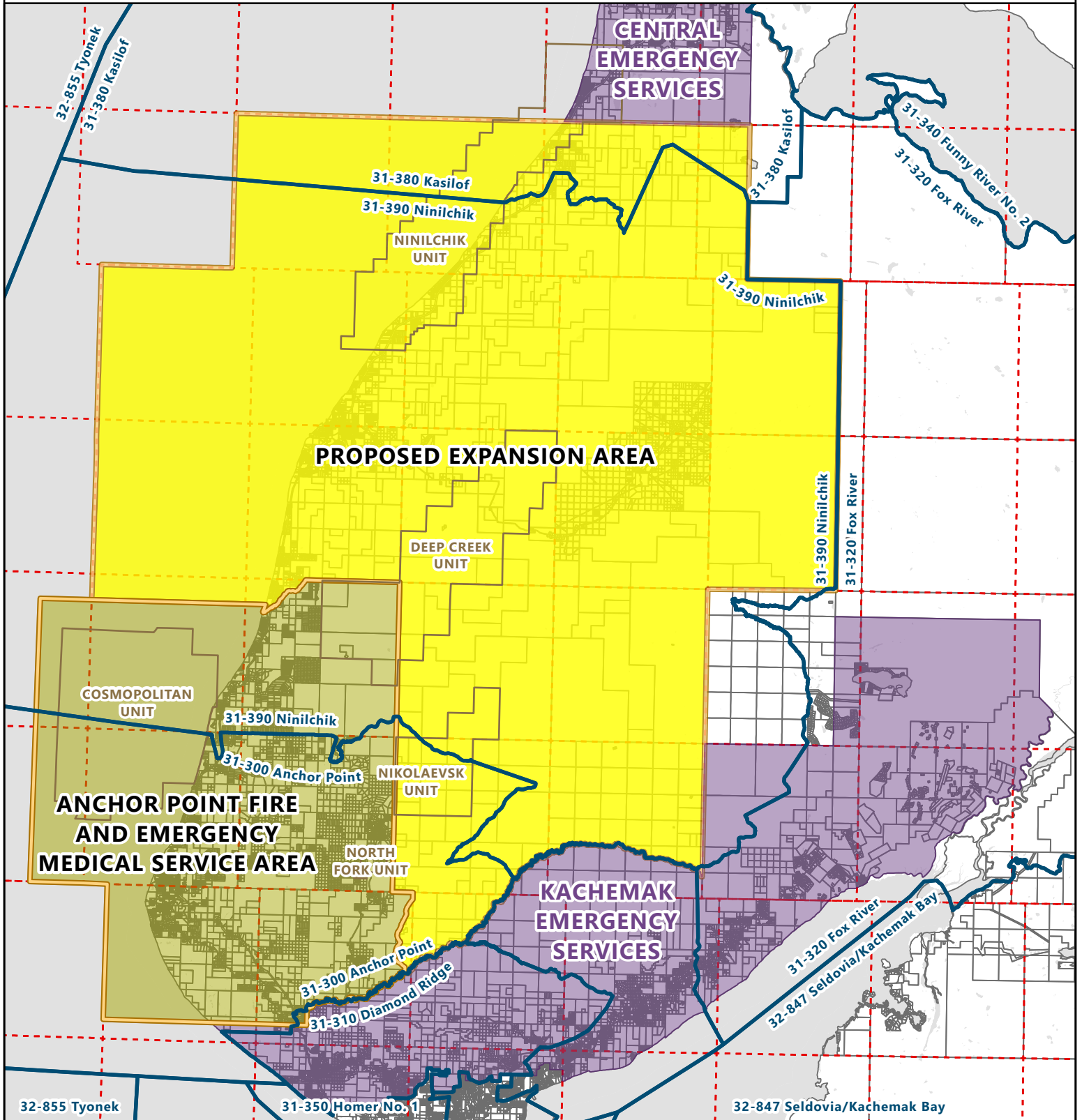

Johni Blankenship, MMC, Borough Clerk


Kelly Cooper, Assembly President



Yes: Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, Cooper
No: None
Absent: None

PROPOSED ANCHOR POINT FIRE AND EMERGENCY MEDICAL SERVICE AREA EXPANSION



 **PROPOSED EXPANSION AREA**

EXISTING FIRE AND EMERGENCY SERVICE AREAS

 **ANCHOR POINT FIRE AND EMERGENCY MEDICAL SERVICE AREA**

 **CENTRAL EMERGENCY SERVICES**

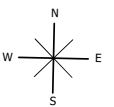
 **KACHEMAK EMERGENCY SERVICES**

 **VOTER PRECINCTS**

 **OIL AND GAS UNITS**

 **TOWNSHIP LINES**

 **PARCELS**



0 5 10 15 20 25 30 35 40 45 50 55 60 65 70 75 80 85 90 95 100 105 110 115 120 125 130 135 140 145 150 155 160 165 170 175 180 185 190 195 200

Introduced by:	Mayor
Date:	12/01/20
Hearing:	01/05/21
Action:	Enacted as Amended
Vote:	9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2020-49**

**AN ORDINANCE APPROVING THE TRANSFER OF ASSETS FROM NINILCHIK
EMERGENCY SERVICES, INC. TO THE BOROUGH ON BEHALF OF THE NEWLY
EXPANDED FIRE & EMERGENCY MEDICAL SERVICE AREA AND EXTENDING
THE DEADLINE FOR COMPLETION OF THE TRANSFER OF ASSETS**

WHEREAS, Ordinance 2020-31 expanded the Anchor Point Fire and Emergency Medical Service Area (APFEMSA) boundaries to include the Ninilchik area subject to approval by the voters residing in the APFEMSA and also by voters residing in the proposed expanded boundaries outside of APFEMSA in the October 6, 2020 regular borough election; and

WHEREAS, the voters in both areas approved the expansion of APFEMSA as described in Ordinance 2020-31; and

WHEREAS, Section 8 of Ordinance 2020-31 also provided that the ordinance shall only take effect if the Ninilchik Emergency Services (NES) non-profit organization transfers free and clear title, ownership, and possession of all real and personal property located in or obtained for use at or by the Ninilchik Fire Department to the borough on behalf of the newly expanded fire and emergency medical service Area on or before January 31, 2021; and

WHEREAS, Ninilchik Emergency Services, Inc. is willing to transfer these assets to the borough on behalf of the new service area before January 31, 2021; and

WHEREAS, the best interests of the borough would be served by authorizing the transfer of these assets to the borough on behalf of the new service area approved by the voters;

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

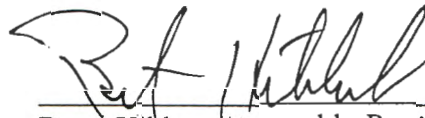
SECTION 1. That the Borough Mayor is authorized to execute any preliminary documents necessary for the borough to accept the transfer of all real and personal property located in or obtained for use at or by the Ninilchik Fire Department from NES on behalf of the newly expanded service area called the Western Emergency Service Area, subject to inspection and approval of the property by the borough administration. A list of the property proposed to be transferred to the borough, subject to borough approval, is attached hereto as Attachment A and incorporated

herein by reference. The final transfer agreement and list of property will be presented to the assembly for approval before the transfer deadline.

SECTION 2. That the deadline in Section 8 of Ordinance 2020-31 for the transfer of free and clear title, ownership and possession of all real and personal property located in and obtained for the use at or by the Ninilchik Fire Department to the borough on behalf of the Western Emergency Service Area is extended from January 31, 2021 to April 20, 2021. The failure to transfer said assets as described shall render the creation of the Western Emergency Service Area null and void.

SECTION 3. That this ordinance shall take effect immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 5TH DAY OF JANUARY, 2021.



Brent Hibbert, Assembly President

ATTEST:



John Blankenship, MMC, Borough Clerk

Yes:	Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No:	None
Absent:	None

Introduced by: Johnson at the Request of
the Borough Clerk
Date: 03/01/22
Action:
Vote:

**KENAI PENINSULA BOROUGH
RESOLUTION 2022-016**

**A RESOLUTION APPROVING A QUARTERLY UPDATE
TO THE BOROUGH RETENTION SCHEDULE**

WHEREAS, sound administrative practices require the borough to keep the retention schedule updated and current; and

WHEREAS, KPB 2.52.030(F) provides for the review and quarterly update of the retention schedule; and

WHEREAS, the records manager continues to address inconsistencies and updates throughout the schedule;

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

SECTION 1. The revisions to the Kenai Peninsula Borough Records Retention Schedule, as shown in the accompanying memorandum and incorporated herein by reference, amend and add several record series to the schedule in an effort to meet current business practices as well as state and federal laws.

SECTION 2. That the revisions referenced above are approved for adoption into the current Kenai Peninsula Borough Records Retention Schedule.

SECTION 3. This resolution becomes effective immediately upon adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 1ST DAY OF MARCH, 2022.

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough
Office of the Borough Clerk
Records Management Division

MEMORANDUM

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

THRU: Johni Blankenship, Borough Clerk (JB)

FROM: Michele Turner, Deputy Clerk/Records Manager (MT)

DATE: February 16, 2022

RE: Resolution 2022-016, Approving a Quarterly Update to the Borough Retention Schedule (Johnson at the request of the Borough Clerk)

KPB 2.52.030(F) provides for the review and quarterly update of the retention schedule.

In collaboration with the departments, the following amendments are presented for the Assembly's consideration.

Assessing

In collaboration with the Borough Assessor the following clarifying language is recommended to address retention of sales questionnaires that are undeliverable:

ASG.ADM.01	DEPARTMENT OPERATIONS General office purchases; vendor information; training and education; membership; dues and subscriptions; budget work papers; advertising. <u>Returned sales questionnaires that are undeliverable.</u>	2 years/Office
ASG.ADM.19	SALES QUESTIONNAIRES Completed Sales Questionnaires submitted to Assessor by property owners declaring purchase price of real property. <u>See ASG.ADM.01 for undeliverables.</u>	4 years/Office

Clerk's Office

The below recommended update will align the retention schedule with the enactment of Ordinance 2021-18, Election Integrity and Security:

CLK.ELE.33	ELECTIONS - VOTED BALLOTS <u>AND TESTING MATERIALS</u> All voted ballots including questioned, completed, challenged, rejected, absentee and special needs ballots. Ballot stubs, precinct election certificates, tallies, and receipts for ballots. <u>Logic and accuracy testing materials.</u> C = Once election is certified, unless contested and stayed by an order of the court.	C/Office 1 year/Records Cntr. KPB 4.10.140 <u>KPB 4.60.040(B)</u>
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Finance - Payroll

In discussions with the Finance Director, the Finance Department now retains the records listed below in an electronic format and are retained in the department.

The recommended revision is as follows:

FIN.PAY.06	COMPLETED W2 FORMS Federal withholding tax statements.	<u>10 years/Office (e)</u> <u>[3-years/</u> <u>Records Cntr.]</u>
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Finance – Audit

This request is to add a new record series to capture other audit files that were not previously defined.

<u>FIN.AUD.04</u>	<u>MISCELLANEOUS AUDIT FILES</u> <u>Documents, work papers, billing records and other items used in auditing businesses for compliance in areas other than sales and personal tax regulations.</u>	<u>1 year/Office</u> <u>6 years/</u> <u>Records Cntr.</u>
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Human Resources

This revision was inadvertently overlooked at the last quarterly update. In discussions with the previous HR Director and HR Specialist, it was determined the Grievance Case Files record series did not offer enough description.

The following revisions are requested:

PER.ADM.23	<u>INCIDENT, INVESTIGATION AND</u> GRIEVANCE CASE FILES <u>Personnel incidents, issues and investigation files, includes notes, correspondence and related backup.</u> [Documents] Grievances [files] <u>filed</u> by employees, grievance forms, investigative notes, reports, correspondence and related backup. Note: certain information is confidential C = resolution and execution of any stipulations.	C+5 years/Office Permanent
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Fire and Emergency Service Areas

Service area board oaths of office, minutes, and board resolutions are administered and archived by the Clerk's Office.

The following updates are requested:

SAB.FES.05	SERVICE AREA BOARD ADMINISTRATION (FIRE & EMERGENCY) Board packets, agendas, <u>and meeting</u> notices, {minutes, resolutions.} Meeting audio is retained in office until administrative need is met. <u>Note: See CLK.ADM.05 for oaths of office, minutes and board resolutions.</u>	Permanent
SAB.ADM.03	SERVICE AREA BOARD ADMINISTRATION Board packets, agendas, <u>and meeting</u> notices, {minutes and resolutions.} Meeting audio is retained in office until administrative need is met. <u>Note: See CLK.ADM.05 for oaths of office, minutes and board resolutions.</u>	Permanent

CLK.ADM.05	BOARDS / COMMISSIONS / SERVICE AREA BOARDS / TASK FORCES / COMMITTEES Appointments and resignations; changes in structure or administration and other organizational issues; minutes; oaths of office and board resolutions.	Permanent
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Your consideration of this resolution is appreciated.

Introduced by: Mayor
Date: 03/01/22
Hearing: 04/05/22
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2021-19-39**

**AN ORDINANCE APPROPRIATING \$200,000 IN THE SCHOOL MAINTENANCE
FUND FOR SNOW REMOVAL AND SANDING**

WHEREAS, due to higher than projected costs associated with sanding school facilities' parking lots and walkways, the maintenance department is seeking supplemental funding to ensure there are sufficient funds on hand through the end of the fiscal year for snow removal and sanding; and

WHEREAS, the School Fund has fund balance available to support the appropriation; and

WHEREAS, the appropriation of fund balance within the School Fund does not impact the current year funding for the school district;

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

SECTION 1. That \$200,000 is appropriated from the School Fund, fund balance to the following account: 241.41010.00000.43764, snow removal and sanding.

SECTION 2. This ordinance shall become effective retroactively to February 28, 2022.

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

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough

Maintenance Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor *CP*

FROM: Brandi Harbaugh, Finance Director *BH*
Tom Nelson, Maintenance Director *TN*

DATE: February 16, 2022

RE: Ordinance 2021-19-39, Appropriating \$200,000 in the School Maintenance Fund for Snow Removal and Sanding (Mayor)

The attached ordinance appropriates \$200,000 in the School Fund for snow removal and sanding of school facilities. Snowfall across the Peninsula has been above average. In addition, site accumulated snow piles have reached sizes requiring snow removal from multiple sites. The Maintenance Department is seeking supplemental funding in order to ensure there are sufficient funds on hand through the end of the fiscal year for snow removal and sanding.

Your consideration of this ordinance is appreciated.

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No.	<u>241.27910</u>
Amount	<u>\$200,000</u>
By: <i>CS</i>	Date: <u>2/17/2022</u>

Introduced by:	Mayor
Date:	03/01/22
Hearing:	04/05/22
Action:	
Vote:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2022-04**

**AN ORDINANCE ADOPTING THE UPDATED 2022 KENAI PENINSULA BOROUGH
COMMUNITY WILDFIRE PROTECTION PLAN**

WHEREAS, the Kenai Peninsula Borough (Borough) is vulnerable to damages from wildfire events which pose a threat to wildlife habitat, public health and safety and could result in property loss or economic hardship; and

WHEREAS, the Borough Community Wildfire Protection Plan (“Plan”) encompasses all lands and serves two audiences: 1) it provides recommended projects designed to greatly reduce wildfire risk to residents, ensuring that communities live safely in this fire prone environment; and 2) it provides guidance to fire and emergency managers, as well as agencies who manage large land holdings; and

WHEREAS, the 2022 Plan is aligned with the National Cohesive Wildland Fire Management Strategy and the 2018 All Lands All Hands Action Plan; and

WHEREAS, this project was funded in part by the Borough, Alaska Division of Forestry and Department of Natural Resources pursuant to USDA Forest Service Award No. 2018-DG-110106-810; and

WHEREAS, the planning commission held a public hearing on this ordinance at its March 21, 2022 meeting and recommended _____; and

WHEREAS, it is in the best interests of the Borough to enact this ordinance;

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

SECTION 1. The document entitled Kenai Peninsula Borough Community Wildfire Protection Plan is hereby adopted for the Kenai Peninsula Borough. The mayor is authorized to make administrative changes to this plan provided the assembly shall be advised of all such changes.

SECTION 2. This ordinance shall become effective upon its enactment.

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

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough

Office of Emergency Management

MEMORANDUM

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

THRU: Charlie Pierce, Mayor *CP*
Melanie Aeschliman, Planning Director *MA*

FROM: Brenda Ahlberg, Emergency Manager *Bl*

DATE: February 16, 2022

RE: Ordinance 2022-04, Adopting the Updated 2022 Kenai Peninsula Borough Community Wildfire Protection Plan (Mayor)

The 2022 Community Wildfire Protection Plan (CWPP) update combines the former 17 plans developed in 2006 through 2009 and encompasses all lands, including unincorporated areas, municipalities and private land holdings as wildfire knows no boundaries across the landscape.

The CWPP project was comprised of a dedicated core team made of local, state, federal agencies as well as non-government agencies and residents. The team was tasked with decision making, data sharing, experience and communication with the communities. The core team conducted five meetings in addition to regular emails or conference calls. The project was broadly promoted throughout the borough, including public venues, comprehensive meetings with individual fire departments, Tribal entities, and critical infrastructure utilities and transportation agencies. The core team participated in a six-week review period to review the working draft, and the planning commission as well as the advisory planning commissions were also asked to review the working draft. Their recommendations will be provided at the April 5, 2022 assembly meeting.

You may visit the project story map at www.kpb.us/cwpp. This story map (an interactive project website designed to tell a story with maps) was used as the primary two-way communication tool, providing information and collecting community input throughout the performance period. The story map will remain "live" and be instrumental for current mapping products, data and serve as a repository of completed mitigation projects.

Your consideration of this ordinance is appreciated.

Introduced by:	Mayor
Date:	03/01/22
Hearing:	04/05/22
Action:	
Vote:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2022-05**

**AN ORDINANCE AMENDING KPB 2.34, RISK MANAGEMENT OFFICE, TO
CHANGE THE TITLE OF THE CLAIMS MANAGER TO RISK MANAGER AND
CLARIFY CURRENT OPERATIONS OF THE OFFICE OF RISK MANAGEMENT**

WHEREAS, amending the title of the Claims Manager to Risk Manager more accurately reflects the functions currently performed by the Risk Manager; and

WHEREAS, as part of a restructuring of the office of risk management, the Safety Manager, Environmental Compliance Manager, and Administrative Assistant will report to the Risk Manager rather than the Human Resources Director; and

WHEREAS, this ordinance serves to clarify and more accurately reflect the current operations of the risk management office;

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

SECTION 1. That KPB 2.34.010 is amended as follows:

2.34.010. Risk Management Office established—Administrator.

[THERE IS IN THE HUMAN RESOURCES DEPARTMENT, THE OFFICE OF RISK MANAGEMENT.] The office of risk management shall be administered by the [CLAIMS] risk manager and a risk management committee consisting of the Kenai Peninsula Borough attorney, the Kenai Peninsula Borough finance director and an employee of the Kenai Peninsula Borough School District who has significant responsibility for managing school district finances and/or human resources and is appointed by the Superintendent. The members of the risk management committee may each designate a person to act as a committee member in the event of absence of that committee member. Meetings of the risk management committee shall be held on a regular monthly basis, and are exempt from the Open Meetings Act as now enacted or as may be hereinafter amended.

SECTION 2. That KPB 2.34.040 is amended as follows:

2.34.040. [CLAIMS] Risk manager—Authority and duties.

The [CLAIMS] risk manager shall have authority, responsibility and duties for:

- A. Identification and prevention, to the extent possible, of all risks of accidental losses and/or claims;
- B. Selection of the appropriate risk management techniques, subject to approval of the risk management committee, for offsetting exposures to losses and/or claims through:
 - 1. risk reduction
 - 2. risk transfer
 - 3. risk retention
 - 4. risk assumption
 - 5. other appropriate methods, including the purchase of insurance.
- C. Further development and maintaining of an information system, in coordination with existing systems, for timely and accurate recording of losses and claims, insurance premiums and other risk related costs and information;
- D. Allocation of loss and claim payments and related costs within the deductible and self-insured retention levels, and all other risk management related costs and insurance premiums to the various budgetary units of the Kenai Peninsula Borough and School District;
- E. Prepare the agenda and chair the monthly meeting of the risk management committee.

SECTION 3. That KPB 2.34.070(A) is amended as follows:

2.34.070. Reserving and investing of the self-insurance fund.

- A. The [CLAIMS] risk manager with the concurrence of the risk management committee shall determine the amount of monies the Kenai Peninsula Borough requires to fund adequate reserves for present known losses and/or claims, estimated reserves for incurred but not reported losses and/or claims, estimated reserves for legal fees for defense of self-insured and uninsured losses and/or claims, estimated costs for purchase of required insurance and bonds and estimated costs for other risk management and insurance related contracts and services.

SECTION 4. That KPB 2.34.100 is amended as follows:

2.34.100. - Payment of self-insured losses and/or claims.

Approval of the self-insurance program and risk retention per Section 2.34.050 shall constitute authority for the [CLAIMS] risk manager with the concurrence of the risk management committee, and where prudent, the Kenai Peninsula Borough mayor and/or the superintendent of the Kenai Peninsula Borough School District, to negotiate and settle or approve and authorize settlements of losses and/or claims within the limits of the deductibles, the self-insured retention level and for those losses and/or claims that are uninsured.

SECTION 5. That KPB 2.34.110 is amended as follows:

2.34.110. Procurement of insurance and services.

The procurement of all insurance and insurance related services and/or contracts for the Kenai Peninsula Borough and School District will be coordinated through the [CLAIMS] risk manager and the risk management committee. Insurance with limits equal to the maximum foreseeable losses and/or claims shall be purchased;

...

- D. The method utilized to procure insurance and/or insurance related services shall be in accordance with the Kenai Peninsula Borough Purchasing Code. The [CLAIMS] risk manager and risk management committee shall be responsible for the purchase and maintaining of insurance and insurance related services as best meets the needs, and cost within funding of the Kenai Peninsula Borough and School District, through methods including but not limited to, open competitive bidding, request for proposals, negotiation with brokers and/or companies, or designation of a broker-of-record to purchase necessary coverage and/or services.

SECTION 6. That KPB 2.34.115 is amended as follows:

2.34.115. Administration of health insurance.

Nothing in this chapter shall be construed to require the risk management office including the [CLAIMS] risk manager and the risk management committee to purchase or administer employee health insurance plans.

SECTION 7. That KPB 2.34.170 is amended as follows:

2.34.170. Public official's and employee dishonesty bonds.

The [CLAIMS] risk manager shall be responsible for maintaining appropriate bonds for the Kenai Peninsula Borough finance director and other designated check signors, for the benefit of the Kenai Peninsula Borough, in the amount of one hundred thousand dollars (\$100,000.00) for each of the bonds required.

SECTION 8. That this ordinance is effective retroactively to January 15, 2022.

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

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough

Human Resources

MEMORANDUM

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

THRU: Charlie Pierce, Mayor *CP*

FROM: Aaron Rhodes, Chief of Staff, Acting HR Director *AR*

DATE: February 16, 2022

RE: Ordinance 2022- 05, Amending KPB 2.34, Risk Management Office, to Change the Title of the Claims Manager to Risk Manager and Clarify the Current Operations of the Office of Risk Management (Mayor)

Within the past five years, the Office of Risk Management has gone through several organizational changes. The purpose of these changes is to improve communication and coordination between the Risk Manager, Safety Manager, Environmental Compliance Manager, and the Administrative Assistant.

This ordinance would amend KPB 2.34 to clarify and more accurately reflect the current operations of the Risk Management office.

Your consideration of this ordinance is appreciated.

Kenai Peninsula Borough

Office of the Borough Clerk

MEMORANDUM

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

THRU: Johni Blankenship, Borough Clerk (JB)

FROM: Joshua Shewell, Borough Clerk Secretary (JS)

DATE: Tuesday, March 1, 2022

RE: L & H Enterprises LLC– Standard Marijuana Cultivation Facility - New License 29493

Kenai Peninsula Borough Code 7.30.010 provides that the Assembly shall review and make recommendations to the state on applications for new licenses located within the Borough. Accordingly, the attached application filed by L & H Enterprises LLC is being submitted to you for review and recommendation.

The Borough Finance Department reviewed the application and has no objection to the new license based on unpaid taxes. The Planning Commission reviewed the application at its Monday, February 28, 2022 meeting and has no objection to the new license based on the standards set forth in KPB 7.30.

RECOMMENDATION:

That the Assembly approves the issuance of a letter of non-objection to the Alcohol Marijuana Control Office regarding the new Standard Marijuana Cultivation Facility license as requested by **L & H Enterprises LLC** with the recommendation that the following conditions be placed on the state license pursuant to 3 AAC 306.060(b):

1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough.
2. There shall be no parking in borough rights-of-way generated by the marijuana establishment.
3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020(A).


Kenai Peninsula Borough

Planning Department

MEMORANDUM

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

THRU: Charlie Pierce, Borough Mayor

FROM: Melanie Aeschliman, Planning Director 

DATE: March 1, 2022

RE: Application for a marijuana cultivation facility license; Applicant: L & H Enterprises, LLC; Land Owner: Stephen Lovelace; PIN: 065-500-04; Location: 299 Aspen Ave., Sterling Area

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled February 28, 2022 meeting.

A motion to recommend approval of the marijuana cultivation facility license for *L & H Enterprises, LLC*, application passed by unanimous vote (9-Yes, 0-No, 1-Absent, 1-Vacant) subject to the following conditions:

1. The marijuana establishment shall conduct their operations consistent with the site plan submitted to the Kenai Peninsula Borough.
2. There shall be no parking in borough rights-of-way generated by the marijuana establishment.
3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020(A).

Minutes are not yet available for this meeting.

Department of Commerce, Community, and Economic
Development

CORPORATIONS, BUSINESS & PROFESSIONAL LICENSING

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ENTITY DETAILS

Name(s)

Type	Name
Legal Name	L & H Enterprises LLC

Entity Type: Limited Liability Company

Entity #: 10158775

Status: Good Standing

AK Formed Date: 3/22/2021

Duration/Expiration: Perpetual

Home State: ALASKA

Next Biennial Report Due: 1/2/2023

Entity Mailing Address: 29945 ASPEN AVE, STERLING , AK 99672

Entity Physical Address: 29945 ASPEN AVE, STERLING , AK 99672

Registered Agent

Agent Name: Shantell Hacker

Registered Mailing Address: P.O. BOX 908, STERLING, AK 99672

Registered Physical Address: 35150 SCOUT LAKE LOOP, STERLING, AK 99672

Officials

☐ Show Former

AK Entity #	Name	Titles	Owned
	Shantell Hacker	Member	50.00
	Stephen T Lovelace	Member	50.00

Filed Documents

Date Filed	Type	Filing	Certificate
3/22/2021	Creation Filing	Click to View	Click to View
3/22/2021	Initial Report	Click to View	

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State of Alaska
Department of Commerce, Community, and Economic Development
Corporations, Business, and Professional Licensing

Certificate of Organization

The undersigned, as Commissioner of Commerce, Community, and Economic Development of the State of Alaska, hereby certifies that a duly signed and verified filing pursuant to the provisions of Alaska Statutes has been received in this office and has been found to conform to law.

ACCORDINGLY, the undersigned, as Commissioner of Commerce, Community, and Economic Development, and by virtue of the authority vested in me by law, hereby issues this certificate to

L & H Enterprises LLC



IN TESTIMONY WHEREOF, I execute the certificate and affix the Great Seal of the State of Alaska effective **March 22, 2021**.

A handwritten signature in cursive script, appearing to read "Julie Anderson".

Julie Anderson
Commissioner



THE STATE
of ALASKA

Department of Commerce, Community, and Economic Development
Division of Corporations, Business, and Professional Licensing
PO Box 110806, Juneau, AK 99811-0806
(907) 465-2550 • Email: corporations@alaska.gov
Website: corporations.alaska.gov

AK Entity #: 10158775
Date Filed: 03/22/2021
State of Alaska, DCCED

FOR DIVISION USE ONLY

Domestic Limited Liability Company

Initial Biennial Report

Entity Name: L & H Enterprises LLC

Entity Number: 10158775

Home Country: UNITED STATES

Home State/Prov.: ALASKA

Physical Address: 29945 ASPEN AVE, STERLING , AK 99672

Mailing Address: 29945 ASPEN AVE, STERLING , AK 99672

Registered Agent information cannot be changed on this form. Per Alaska Statutes, to update or change the Registered Agent information this entity must submit the Statement of Change form for this entity type along with its filing fee.

Name: Shantell Hacker

Physical Address: 35150 SCOUT LAKE LOOP, STERLING, AK 99672

Mailing Address: P.O. BOX 908, STERLING, AK 99672

Officials: The following is a complete list of officials who will be on record as a result of this filing.

- **Provide all officials and required information. Use only the titles provided.**
- **Mandatory Members:** this entity must have at least one (1) Member. A Member must own a %. In addition, this entity must provide all Members who own 5% or more of the entity. A Member may be an individual or another entity.
- **Manager:** If the entity is manager managed (per its articles or amendment) then there must be at least (1) Manager provided. A Manager may be a Member if the Manager also owns a % of the entity.

Full Legal Name	Complete Mailing Address	% Owned	Member
Stephen T Lovelace	29945 Aspen Ave, Sterling, AK 99672	50	X
Shantell Hacker	P.O. Box 908, Sterling, AK 99672	50	X

If necessary, attach a list of additional officers on a separate 8.5 X 11 sheet of paper.

NAICS Code: 111998 - ALL OTHER MISCELLANEOUS CROP FARMING

New NAICS Code (optional):

This form is for use by the named entity only. Only persons who are authorized by the above Official(s) of the named entity may make changes to it. If you proceed to make changes to this form or any information on it, you will be certifying under penalty of perjury that you are authorized to make those changes, and that everything on the form is true and correct. In addition, persons who file documents with the commissioner that are known to the person to be false in material respects are guilty of a class A misdemeanor. Continuation means you have read this and understand it.

Name: Shantell Lacie Hacker

Alaska Department of Commerce, Community, and Economic Development

Division of Corporations, Business, and Professional Licensing
PO Box 110806, Juneau, AK 99811-0806

This is to certify that

L & H Enterprises LLC

P.O. Box 908, Sterling, AK 99672

owned by

L & H Enterprises LLC

is licensed by the department to conduct business for the period

December 2, 2021 to December 31, 2023
for the following line(s) of business:

11 - Agriculture, Forestry, Fishing and Hunting



This license shall not be taken as permission to do business in the state without having complied with the other requirements of the laws of the State or of the United States.

This license must be posted in a conspicuous place at the business location.
It is not transferable or assignable.

Julie Anderson
Commissioner

OPERATING AGREEMENT FOR MEMBER-MANAGED LIMITED LIABILITY COMPANY

I. PRELIMINARY PROVISIONS

(1) *Effective Date:* This operating agreement of L & H Enterprises effective 3/20/2021, is adopted by the members whose signatures appear at the end of this agreement (the "Agreement").

(2) *Formation:* This limited liability company (LLC) was formed by filing Articles of Organization, a Certificate of Formation or a similar organizational document with the LLC filing office of the state of Alaska on 3/20/21. A copy of this organizational document has been placed in the LLC's records book.

(3) *Name:* The formal name of this LLC is as stated above. However, this LLC may do business under a different name by complying with the state's fictitious or assumed business name statutes and procedures.

(4) *Registered Office and Agent:* The registered office of this LLC and the registered agent at this address are as follows:

The registered office and agent may be changed from time to time as the members may see fit, by filing a change of registered agent or office form with the state LLC filing office. It will not be necessary to amend this provision of the operating agreement if and when such a change is made.

(5) *Business Purposes:* The specific business purposes and activities contemplated by the founders of this LLC at the time of initial signing of this agreement consist of the following:

Cultivation & Manufacturing

It is understood that the foregoing statement of purposes shall not serve as a limitation on the powers or abilities of this LLC, which shall be permitted to engage in any and all lawful business activities. If this LLC intends to engage in business activities outside the state of its formation that require the qualification of the LLC in other states, it shall obtain such qualification before engaging in such out-of-state activities.

(6) *Duration of LLC:* The duration of this LLC shall be perpetually. Further, this LLC shall terminate when a proposal to dissolve the LLC is adopted by the membership of this LLC or when this LLC is otherwise terminated in accordance with law.

II. MEMBERSHIP PROVISIONS

(1) *Non-liability of Members:* No member of this LLC shall be personally liable for the expenses, debts, obligations or liabilities of the LLC, or for claims made against it.

(2) *Reimbursement for Organizational Costs:* Members shall be reimbursed by the LLC for organizational expenses paid by the members. The LLC shall be authorized to elect to deduct organizational expenses and start-up expenditures ratably over a period of time as permitted by the Internal Revenue Code and as may be advised by the LLC's tax advisor.

(3) *Management:* This LLC shall be managed exclusively by all of its members

(4) *Members' Percentage Interests:* A member's percentage interest in this LLC shall be computed as a fraction, the numerator of which is the total of a member's capital account and the denominator of which is the total of all capital accounts of all members. This fraction shall be expressed in this agreement as a percentage, which shall be called each member's "percentage interest" in this LLC.

(5) *Membership Voting:* Except as otherwise may be required by the Articles of Organization, Certificate of Formation or a similar organizational document, other provisions of this operating agreement, or under the laws of this state, each member shall vote on any matter submitted to the membership for approval in proportion to the member's percentage interest in this LLC. Further, unless defined otherwise for a particular provision of this operating agreement, the phrase "majority of members" means the vote of members whose combined votes equal more than 50% of the votes of all members in this LLC.

(6) *Compensation:* Members shall not be paid as members of the LLC for performing any duties associated with such membership, including management of the LLC. Members may be paid, however, for any services rendered in any other capacity for the LLC, whether as officers, employees, independent contractors or otherwise.

(7) *Members' Meetings:* The LLC shall not provide for regular members' meetings. However, any member may call a meeting by communicating his or her wish to schedule a meeting to all other members. Such notification may be in person or in writing, or by telephone, facsimile machine, or other form of electronic communication reasonably expected to be received by a member, and the other members shall then agree, either personally, in writing, or by telephone, facsimile machine or other form of electronic communication to the member calling the meeting, to meet at a mutually acceptable time and place. Notice of the business to be transacted at the meeting need not be given to members by the member calling the meeting, and any business may be discussed and conducted at the meeting. If all members cannot attend a meeting, it shall be postponed to a date and time when all members can attend, unless all members who do not attend have agreed in writing to the holding of the meeting without them. If a meeting is postponed, and the postponed meeting cannot be held either because all members do not attend the postponed meeting or the non-attending members have not signed a written consent to allow the postponed meeting to be held without them, a second postponed meeting may be held at a date and time announced at the first postponed meeting. The date and time of the second postponed meeting shall also be communicated to any members not attending the first postponed meeting. The second postponed meeting may be held without the attendance of all members as long as a majority of the percentage interests of the membership of this LLC is in attendance at the second postponed meeting. Written notice of the decisions or approvals made at this second postponed meeting shall be mailed or delivered to each non-attending member promptly after the holding of the second postponed meeting. Written minutes of the discussions and proposals presented at a members' meeting, and the votes taken and matters approved at such meeting, shall be taken by one of the members or a person designated at the meeting. A copy of the minutes of the meeting shall be placed in the LLC's records book after the meeting.

(8) *Membership Certificates:* This LLC shall be authorized to obtain and issue certificates representing or certifying membership interests in this LLC. Each certificate shall show the name of the LLC, the name of the member, and state that the person named is a member of the LLC and is entitled to all the rights granted members of the LLC under the Articles of Organization, Certificate of Formation or a similar organizational document, this operating agreement and provisions of law. Each membership certificate shall be consecutively numbered and signed by one or more officers of this LLC. The certificates shall include any additional information considered appropriate for inclusion by the members on membership certificates. In addition to the above information, all membership certificates shall bear a prominent legend on their face or reverse side stating, summarizing or referring to any transfer restrictions that apply to memberships in this LLC under the Articles of Organization, Certificate of Formation or a similar organizational document and/or this operating agreement, and the address where a member may obtain a copy of these restrictions upon request from this LLC. The records book of this LLC shall contain a list of the names and addresses of all persons to whom certificates have been issued, show the date of issuance of each certificate, and record the date of all cancellations or transfers of membership certificates.

(9) *Other Business by Members:* Each member shall agree not to own an interest in, manage or work for another business, enterprise or endeavor, if such ownership or activities would compete with this LLC's business goals, mission, profitability or productivity, or would diminish or impair the member's ability to provide maximum effort and performance in managing the business of this LLC.

III. TAX AND FINANCIAL PROVISIONS

- (1) *Tax Classification of LLC:* The members of this LLC intend that this LLC be initially classified as a pass through entity for federal and, if applicable, state income tax purposes. It is understood that all members may agree to change the tax treatment of this LLC by signing, or authorizing the signature of, IRS Form 8832, Entity Classification Election, and filing it with the IRS and, if applicable, the state tax department within the prescribed time limits.
- (2) *Tax Year and Accounting Method:* The tax year of this LLC shall be 2021. The LLC shall use the cash method of accounting. Both the tax year and the accounting period of the LLC may be changed with the consent of all members if the LLC qualifies for such change, and may be effected by the filing of appropriate forms with the IRS and state tax authorities.
- (3) *Tax Matters Partner:* If this LLC is required under Internal Revenue Code provisions or regulations, it shall designate from among its members a "tax matters partner" in accordance with Internal Revenue Code Section 6231 (a) (7) and corresponding regulations, who will fulfill this role by being the spokesperson for the LLC in dealings with the IRS as required under the Internal Revenue Code and Regulations, and who will report to the members on the progress and outcome of these dealings.
- (4) *Annual Income Tax Returns and Reports:* Within 60 days after the end of each tax year of the LLC, a copy of the LLC's state and federal income tax returns for the preceding tax year shall be mailed or otherwise provided to each member of the LLC, together with any additional information and forms necessary for each member to complete his or her individual state and federal income tax returns. If this LLC is classified as a partnership for income tax purposes, this additional information shall include a federal (and, if applicable, state) Form K-1 (Form 1065 - Partner's Share of Income, Credits, Deductions) or equivalent income tax reporting form. This additional information shall also include a financial report, which shall include a balance sheet and profit and loss statement for the prior tax year of the LLC.
- (5) *Bank Accounts:* The LLC shall designate one or more banks or other institutions for the deposit of the funds of the LLC, and shall establish savings, checking, investment and other such accounts as are reasonable and necessary for its business and investments. One or more members of the LLC shall be designated with the consent of all members to deposit and withdraw funds of the LLC, and to direct the investment of funds from, into and among such accounts. The funds of the LLC, however and wherever deposited or invested, shall not be commingled with the personal funds of any members of the LLC.
- (6) *Title to Assets:* All personal and real property of this LLC shall be held in the name of the LLC, not in the names of individual members.

IV. CAPITAL PROVISIONS

- (1) *Capital Contributions by Members:* Members shall make the following contributions of cash, property or services as shown next to each member's name below. Unless otherwise noted, cash and property described below shall be paid or delivered to the LLC on or by 3/20/2021. The fair market values of items of property or services as agreed between the LLC and the contributing member are also shown below. The percentage interest in the LLC that each member shall receive in return for his or her capital contribution is also indicated for each member.

<u>NAME & ADDRESS</u>	<u>CONTRIBUTION</u>	<u>% INTEREST IN LLC</u>
(1) <u>Stephen T Lovelace</u> <u>29945 Aspen Ave</u> <u>Sterling Ak 99672</u>	<u>\$50,000.00</u>	<u>50%</u>
(2) <u>Shantell L Hacker</u>	<u>\$50,000.00</u>	<u>50%</u>

35150 Scout Lake Loop Rd

Sterling AK 99672

(3) _____

(2) *Additional Contributions by Members:* The members may agree, from time to time by unanimous vote, to require the payment of additional capital contributions by the members, on or by a mutually agreeable date.

(3) *Failure to Make Contributions:* If a member fails to make a required capital contribution within the time agreed for a member's contribution, the remaining members may, by unanimous vote, agree to reschedule the time for payment of the capital contribution by the late-paying member, setting any additional repayment terms, such as a late payment penalty, rate of interest to be applied to the unpaid balance, or other monetary amount to be paid by the delinquent member, as the remaining members decide. Alternatively, the remaining members may, by unanimous vote, agree to cancel the membership of the delinquent member, provided any prior partial payments of capital made by the delinquent member are refunded promptly by the LLC to the member after the decision is made to terminate the membership of the delinquent member.

(4) *No Interest on Capital Contributions:* No interest shall be paid on funds or property contributed as capital to this LLC, or on funds reflected in the capital accounts of the members.

(5) *Capital Account Bookkeeping:* A capital account shall be set up and maintained on the books of the LLC for each member. It shall reflect each member's capital contribution to the LLC, increased by each member's share of profits in the LLC, decreased by each member's share of losses and expenses of the LLC, and adjusted as required in accordance with applicable provisions of the Internal Revenue Code and corresponding income tax regulations.

(6) *Consent to Capital Contribution Withdrawals and Distributions:* Members shall not be allowed to withdraw any part of their capital contributions or to receive distributions, whether in property or cash, except as otherwise allowed by this agreement and, in any case, only if such withdrawal is made with the written consent of all members.

(7) *Allocations of Profits and Losses:* No member shall be given priority or preference with respect to other members in obtaining a return of capital contributions, distributions or allocations of the income, gains, losses, deductions, credits or other items of the LLC. The profits and losses of the LLC, and all items of its income, gain, loss, deduction and credit shall be allocated to members according to each member's percentage interest in this LLC.

(8) *Allocation and Distribution of Cash to Members:* Cash from LLC business operations, as well as cash from a sale or other disposition of LLC capital assets, may be distributed from time to time to members in accordance with each member's percentage interest in the LLC, as may be decided by both of the members.

(9) *Allocation of Noncash Distributions:* If proceeds consist of property other than cash, the members shall decide the value of the property and allocate such value among the members in accordance with each member's percentage interest in the LLC. If such noncash proceeds are later reduced to cash, such cash may be distributed among the members as otherwise provided in this agreement.

(10) *Allocation and Distribution of Liquidation Proceeds:* Regardless of any other provision in this agreement, if there is a distribution in liquidation of this LLC, or when any member's interest is liquidated, all items of income and loss shall be allocated to the members' capital accounts, and all appropriate credits and deductions shall then be made to these capital accounts before any final distribution is made. A final distribution shall be made to members only to the extent of, and in proportion to, any positive balance in each member's capital account.

V. MEMBERSHIP WITHDRAWAL AND TRANSFER PROVISIONS

(1) *Withdrawal of Members:* A member may withdraw from this LLC by giving written notice to all other members at least 60 days before the date the withdrawal is to be effective.

(2) *Restrictions on the Transfer of Membership:* A member shall not transfer his or her membership in the LLC unless all non-transferring members in the LLC first agree to approve the admission of the transferee into this LLC. Further, no member may encumber a part or all of his or her membership in the LLC by mortgage, pledge, granting of a security interest, lien or otherwise, unless the encumbrance has first been approved in writing by all other members of the LLC. Notwithstanding the above provision, any member shall be allowed to assign an economic interest in his or her membership to another person without the approval of the other members. Such an assignment shall not include a transfer of the member's voting or management rights in this LLC, and the assignee shall not become a member of the LLC.

VI. DISSOLUTION PROVISIONS

(1) *Events That Trigger Dissolution of the LLC:* The following events shall trigger dissolution of the LLC, except as provided:

- (a) the death, permanent incapacity, bankruptcy, retirement, resignation or expulsion of a member, except that within 90 of the happening of any of these events, all remaining members of the LLC may vote to continue the legal existence of the LLC, in which case the LLC shall not dissolve;
- (b) the expiration of the term of existence of the LLC if such term is specified in the Articles of Organization, Certificate of Formation or a similar organizational document, or this operating agreement;
- (c) the written agreement of all members to dissolve the LLC;
- (d) entry of a decree of dissolution of the LLC under state law.

VII. GENERAL PROVISIONS

(1) *Officers:* The LLC may designate one or more officers, such as a President, Vice President, Secretary and Treasurer. Persons who fill these positions need not be members of the LLC. Such positions may be compensated or non-compensated according to the nature and extent of the services rendered for the LLC as a part of the duties of each office. Ministerial services only as a part of any officer position will normally not be compensated, such as the performance of officer duties specified in this agreement, but any officer may be reimbursed by the LLC for out-of-pocket expenses paid by the officer in carrying out the duties of his or her office.

(2) *Records:* The LLC shall keep at its principal business address a copy of all proceedings of membership meetings, as well as books of account of the LLC's financial transactions. A list of the names and addresses of the current membership of the LLC also shall be maintained at this address, with notations on any transfers of members' interests to nonmembers or persons being admitted into membership in the LLC.

Copies of the LLC's Articles of Organization, Certificate of Formation or a similar organizational document, a signed copy of this operating agreement, and the LLC's tax returns for the preceding three tax years shall be kept at the principal business address of the LLC. A statement also shall be kept at this address containing any of the following information that is applicable to this LLC:

- the amount of cash or a description and value of property contributed or agreed to be contributed as capital to the LLC by each member;
- a schedule showing when any additional capital contributions are to be made by members to this LLC;

- a statement or schedule, if appropriate, showing the rights of members to receive distributions representing a ~~return~~ of part or all of members' capital contributions; and
- a description of, or date when, the legal existence of the LLC will terminate under provisions in the LLC's Articles of Organization, Certificate of Formation or a similar organizational document, or this operating agreement.

If one or more of the above items is included or listed in this operating agreement, it will be sufficient to keep a copy of this agreement at the principal business address of the LLC without having to prepare and keep a separate record of such item or items at this address. Any member may inspect any and all records maintained by the LLC upon reasonable notice to the LLC. Copying of the LLC's records by members is allowed, but copying costs shall be paid for by the requesting member.

(3) *All Necessary Acts*: The members and officers of this LLC are authorized to perform all acts necessary to perfect the organization of this LLC and to carry out its business operations expeditiously and efficiently. The Secretary of the LLC, or other officers, or all members of the LLC, may certify to other businesses, financial institutions and individuals as to the authority of one or more members or officers of this LLC to transact specific items of business on behalf of the LLC.

(4) *Indemnification*: The LLC shall indemnify the Member and those authorized officers, agents, and employees of the LLC identified in writing by the Member as entitled to being indemnified under this section for all costs, losses, liabilities and damages paid or accrued by the Member (as the Member or officer, agent, or employee) or any such office, agent, or employee in connection with the business of the LLC, except to the extent prohibited by the laws of the state that governs this Agreement. In addition, the LLC may advance costs of defense of any proceeding to the Member or any such officer, agent, or employee upon receipt by the LLC of an undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined that the person is not entitled to be indemnified by the LLC.

(5) *Mediation and Arbitration of Disputes Among Members*: In any dispute over the provisions of this operating agreement and in other disputes among the members, if the members cannot resolve the dispute to their mutual satisfaction, the matter shall be submitted to mediation. The terms and procedure for mediation shall be arranged by the parties to the dispute. If good-faith mediation of a dispute proves impossible or if an agreed-upon mediation outcome cannot be obtained by the members who are parties to the dispute, the dispute may be submitted to arbitration in accordance with the rules of the American Arbitration Association. Any party may commence arbitration of the dispute by sending a written request for arbitration to all other parties to the dispute. The request shall state the nature of the dispute to be resolved by arbitration, and, if all parties to the dispute agree to arbitration, arbitration shall be commenced as soon as practical after such parties receive a copy of the written request. All parties shall initially share the cost of arbitration, but the prevailing party or parties may be awarded attorney fees, costs and other expenses of arbitration. All arbitration decisions shall be final, binding and conclusive on all the parties to arbitration, and legal judgment may be entered based upon such decision in accordance with applicable law in any court having jurisdiction to do so.

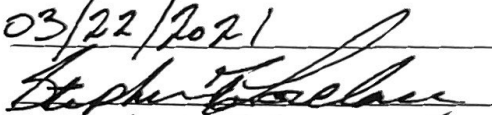
(6) *Governing Law*: This Agreement shall be governed by, and interpreted and enforced in accordance with, the substantive laws of the State in which the LLC was formed, without reference to the conflicts of law rules of that or any other jurisdiction.

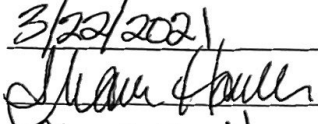
(7) *Entire Agreement*: This operating agreement represents the entire agreement among the members of this LLC, and it shall not be amended, modified or replaced except by a written instrument executed by all the parties to this agreement who are current members of this LLC as well as any and all additional parties who became members of this LLC after the adoption of this agreement. This agreement replaces and supersedes all prior written and oral agreements among any and all members of this LLC.

(8) *Severability*: If any provision of this agreement is determined by a court or arbitrator to be invalid, unenforceable or otherwise ineffective, that provision shall be severed from the rest of this agreement, and the remaining provisions shall remain in effect and enforceable.

VIII. SIGNATURES OF MEMBERS

Execution of Agreement: In witness whereof, the members of this LLC sign and adopt this agreement as the operating agreement of this LLC.

Date: 03/22/2021
Signature: 
Printed Name: STEPHEN T. LOVELACE, Member

Date: 3/22/2021
Signature: 
Printed Name: Shantell Hooker, Member

Date: _____
Signature: _____
Printed Name: _____, Member

From: Sarah
To: shanalacie@gmail.com
Cc: [Marijuana Licensing \(CED sponsored\)](#)
Subject: Concern
Date: Tuesday, May 11, 2021 4:56:40 PM

Shantelle and Stephen,

I wanted to pass this on to you so that you are aware of my objection unless proper filtration is in place. My brother in law operates the largest grow in WA state, and uses proper filtration such that one would never know what occurs behind closed doors. This is possible, and would allow those in our community who do not tolerate the smell of marijuana being grown to still enjoy all aspects of this community. I hope you are able to ensure this in your space to minimize the impact to others outside of your property lines.

With Kindness,

Sarah Pyhala

> Dear AMCO,

> I am writing to object to the addition of a local marijuana cultivation facility in Sterling, Alaska, on the corner of Feuding Lane and Aspen Avenue. That is, unless proper filtration systems are in place. I know of several people on the Peninsula who suffer from allergic reactions, some severe, to the scent of grow operations. This forces them to have to wear organic vapor masks in order to avoid anaphylactic shock while simply driving along the Sterling Highway. As this is a serious condition, and multiple operations do not presently have proper ventilation, these people are effectively prisoners within their own community. When placed within a neighborhood, or near public access, proper filtration of the air expressed from a commercial grow operation needs to be a priority, and if the operation doesn't have funding to protect those around them, they aren't responsible enough to be in business.

>

> Please, consider those whose health is truly impaired by this controlled substance, and require proper filtration systems to be installed so those in surrounding homes are not impacted.

>

> With Respect,

>

> Sarah Pyhala

From: Pamela Lloyd
To: shanalacie@gmail.com
Cc: [Marijuana Licensing \(CED sponsored\)](#)
Subject: Opposition to license #29493
Date: Thursday, May 20, 2021 12:00:38 PM
Attachments: [image001.png](#)

Hi.

The licensing board requested that I send you a copy of my opposition to your grow operation. I'm also CCing the licensing board. While it's wordy, I'm sending the licensing boards reply to you also.

Clarification of some of my concerns would be appreciated.

My address is listed below.

Thank you,

Pamela Lloyd.

From: "Marijuana Licensing (CED sponsored)" <marijuana.licensing@alaska.gov>
Date: May 11, 2021 at 2:53:13 PM AKDT
To: Pamela Lloyd <pamela.lloyd5@gmail.com>, "Marijuana Licensing (CED sponsored)" <marijuana.licensing@alaska.gov>
Subject: **RE: Opposition to license #29493**

Good afternoon,

AMCO has received and filed your Public Comment on a Marijuana License Application, License #29493, Doing Business As: L & H Enterprises LLC.

In order for this to be considered an Objection under 3 AAC 306.065, you must do the following and submit the proof to AMCO within 30 days of the application being deemed complete:

- 1) You must provide a copy of your objection to the applicant via mail or email.
 - The applicant's email address is: shanalacie@gmail.com
 - The applicant's mailing address is:
Shantell Lacie Hacker, Stephen T Lovelace
29945 Aspen Avenue
Sterling, AK 99672
- 2) Proof of the submission to the applicant must be provided to the AMCO office (If you feel comfortable, this could be done by forwarding your email to shanalacie@gmail.com and copying marijuana.licensing@alaska.gov).

As is, your email will be logged as a public comment. However, if you do not file a formal objection under 3 AAC 306.065 within 30 days of the application being deemed complete (currently the application has not been submitted in full to our office), your comment will be forwarded to Management and presented to the board as a public comment at the next available Marijuana Control Board Meeting (once/if the application is submitted and deemed complete).

Completed Applications can be found on our website here:

<https://www.commerce.alaska.gov/web/amco/CompletedApplicationsforMarijuanaEstablishmentLicenses.aspx>

AMCO does not notify objectors/commenters when an application is scheduled for consideration at a meeting, but you can find meeting information on AMCO's home page (<https://www.commerce.alaska.gov/web/amco/>) about halfway down the page in the blue "MCB Board Meeting" box. One week before each meeting, the meeting agenda will also be posted in this section. When you know that the application is complete, you can use the agenda to determine the order in which the item is being considered by the Board in case you wish to speak regarding your objection/comment.

Additional documents or questions may be submitted at marijuana.licensing@alaska.gov or via mail.

Sincerely,



Jacqueline Drulis

Occupational Licensing Examiner
Alcohol & Marijuana Control Office
550 West 7th Avenue, Suite 1600
Anchorage, Alaska 99501

From: Pamela Lloyd [mailto:pamela.lloyd5@gmail.com]
Sent: Thursday, May 6, 2021 9:11 AM
To: Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov>
Subject: Opposition to license #29493

To Whom It May Concern:

I am writing to express my NO opinion of the Marijuana Cultivation Facility (license #29493) that is being proposed at the corner of Feuding Lane and Aspen Av. This is a residential area with homes, bus stops, walkers and joggers with children, dogs and concerned neighbors. I would like to see it remain that way. There is plenty of acreage available on the Sterling Highway that would be more suitable for this type of business. I am concerned about many issues.

-I am concerned about the environment and the impact on our water table from this operation. Marijuana grow houses require massive amounts of water. Will there be environmental studies to demonstrate the neighborhood will be protected from contaminants needed for growing? What in-house water treatment will be utilized for the waste water from the plants? Will there be a discharge of waste water laymen with chemicals from a hydroponic garden?" Will their septic tanks have the capacity to handle the massive water needed for growing or will these contaminants leach into the ground water, poisoning our water table? "

-A grow house requires massive amounts of electricity. Will there be chemicals exhausted? From what I understand, the venting of air conditioners is set to circulate carbon dioxide to marijuana plants. This buildup of poisonous gases from the chemical nutrients can be released into the air of our residential neighborhood. The constant use of the exhaust fans could also increase a fire hazard. This hazard can extend to surrounding homes and the trees in this neighborhood. In the past five years, we have lived through several devastating fires. We do not need additional hazards!

-The odor issue needs to be addressed. I am also concerned about the noise factor in keeping the grow operation well ventilated, etc. How often do scrubbers maintain the odor? I've heard horror stories about the smell from such operations, as well as the noise from the

air circulation. Again, this is a residential neighborhood.

Grow houses can bring criminals, weapons and violence into our neighborhood. Growers sometimes arm themselves protect themselves and their operation.

-I live .8 miles from Feuding Lane and Aspen Av. I walk from my home on White Spruce Ave along Feuding Lane to the mailboxes daily and I am concerned about increased traffic from workers as well as people driving around the neighborhood looking for homes and property to vandalize or rob. Feuding Lane does not have walking shoulders and there is little space to walk off the road to let traffic pass. People do not follow the posted speed limit now, will we have additional traffic enforcement?

Thank you,

Pamela Lloyd

30238 While Spruce Av.

Sterling, AK. 99672

907-242-6007

From: Lynn Rickert
To: shanalacie@gmail.com
Cc: [Marijuana Licensing \(CED sponsored\)](#)
Subject: Marijuana Cultivation
Date: Thursday, May 27, 2021 8:55:43 PM

Dear Shantell Lacie Hacker,

This letter is being sent to express my disapproval of a marijuana cultivation facility to be located on [29945 Aspen Avenue, Sterling, AK](#). Objections are listed below:

1. I, along with many neighbors who live in this area strongly object to having a marijuana cultivation facility doing business in our neighborhood because this is a residential family neighborhood not a business area.
2. The odor emitted from a marijuana cultivation facility will have a negative impact on our families, children and grandchildren. Exposure to these unpleasant odors will have an adverse effect on our quality of life.
3. Realtors say a marijuana cultivation facility will decrease our property values.
4. The approval of this license will squelch personal business opportunities, such as lodging fishing clients, etc.

Our neighborhood is gathering petition signatures due to these objections and even more objections which are not listed in my letter. Please consider these reasons for my disapproval. Thank you.

Sincerely yours,

Lynn Rickert

Sent from my iPhone

Sent from my iPhone

Sent from my iPhone



Alaska Marijuana Control Board

Form MJ-00: Application Certifications

What is this form?

This application certifications form is required for all marijuana establishment license applications. Each person signing an application for a marijuana establishment license must declare that he/she has read and is familiar with AS 17.38 and 3 AAC 306.

This form must be completed and submitted to AMCO's main office by each proposed licensee (as defined in 3 AAC 306.020(b)(2)) before any license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	L&H Enterprises LLC	License Number:	29493		
License Type:	Standard Marijuana Cultivation Facility				
Doing Business As:	L&H Enterprises LLC				
Premises Address:	29945 Aspen Ave				
City:	Sterling	State:	AK	ZIP:	99672

Section 2 – Individual Information

Enter information for the individual licensee.

Name:	Stephen T Lovelace
Title:	Co-Owner

Section 3 – Other Licenses

Ownership and financial interest in other licenses:

Yes No

Do you currently have or plan to have an ownership interest in, or a direct or indirect financial interest in another marijuana establishment license?

☒ ☐

If "Yes", which license numbers (for existing licenses) and license types do you own or plan to own?

We plan to open a manufacturing facility & retail store in the future but at a different location.



Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-00: Application Certifications

Section 4 – Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that I have not been convicted of a felony in any state or the United States, including a suspended imposition of sentence, for which less than five years have elapsed from the time of the conviction to the date of this application.

I certify that I am not currently on felony probation or felony parole.

I certify that I have not been found guilty of selling alcohol without a license in violation of AS 04.11.010.

I certify that I have not been found guilty of selling alcohol to an individual under 21 years of age in violation of 04.16.051 or AS 04.16.052.

I certify that I have not been convicted of a misdemeanor crime involving a controlled substance, violence against a person, use of a weapon, or dishonesty within the five years preceding this application.

I certify that I have not been convicted of a class A misdemeanor relating to selling, furnishing, or distributing marijuana or operating an establishment where marijuana is consumed within the two years preceding this application.

I certify that my proposed premises is not within 500 feet of a school ground, recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility, as set forth in 3 AAC 306.010(a).

I certify that my proposed premises is not located in a liquor licensed premises.

I certify that I meet the residency requirement under AS 43.23 for a permanent fund dividend in the calendar year in which I am initiating this application.

I certify that all proposed licensees (as defined in 3 AAC 306.020(b)(2)) have been listed on my online marijuana establishment license application. Additionally, if applicable, all proposed licensees have been listed on my application with the Division of Corporations.

I certify that I understand that providing a false statement on this form, the online application, or any other form provided by AMCO is grounds for denial of my application.



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Alaska Marijuana Control Board

Form MJ-00: Application Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify and understand that I must operate in compliance with the Alaska Department of Labor and Workforce Development's laws and requirements pertaining to employees.



I certify and understand that I must operate in compliance with each applicable public health, fire, safety, and tax code and ordinance of this state and the local government in which my premises is located.



Read each line below, and then sign your initials in the box to the right of only the applicable statement:

Initials

Only initial next to the following statement if this form is accompanying an application for a marijuana testing facility license:

I certify that I do not have an ownership in, or a direct or indirect financial interest in a retail marijuana store, a marijuana cultivation facility, or a marijuana products manufacturing facility.



Only initial next to the following statement if this form is accompanying an application for a retail marijuana store, a marijuana cultivation facility, or a marijuana products manufacturing facility license:

I certify that I do not have an ownership in, or a direct or indirect financial interest in a marijuana testing facility license.

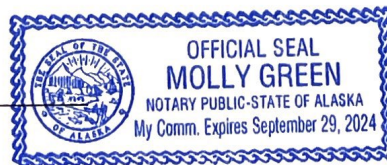


All marijuana establishment license applicants:

As an applicant for a marijuana establishment license, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that the online application and this form, including all accompanying schedules and statements, is true, correct, and complete.


Signature of licensee

Stephen Lovelace
Printed name of licensee



Subscribed and sworn to before me this 18 day of December, 2021.


Notary Public in and for the State of Alaska

My commission expires: 9.29.24



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License Type:	Standard Marijuana Cultivation Facility				
Doing Business As:	L&H Enterprises LLC				
Premises Address:	29945 Aspen Ave				
City:	Sterling	State:	AK	ZIP:	99672

Section 2 – Individual Information

Enter information for the individual licensee.

Name:	Shantell Hacker
Title:	Co-Owner

Section 3 – Other Licenses

Ownership and financial interest in other licenses:

Yes No

Do you currently have or plan to have an ownership interest in, or a direct or indirect financial interest in another marijuana establishment license?



If "Yes", which license numbers (for existing licenses) and license types do you own or plan to own?

We plan to open a manufacturing facility & retail store in the future but at a different location.



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Alaska Marijuana Control Board

Form MJ-00: Application Certifications

Section 4 – Certifications

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Initials

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Alaska Marijuana Control Board

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I certify and understand that I must operate in compliance with each applicable public health, fire, safety, and tax code and ordinance of this state and the local government in which my premises is located.



Read each line below, and then sign your initials in the box to the right of only the applicable statement:

Initials

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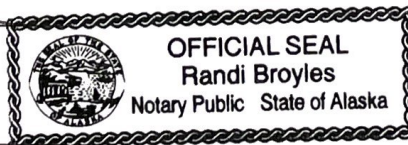
All marijuana establishment license applicants:

As an applicant for a marijuana establishment license, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that the online application and this form, including all accompanying schedules and statements, is true, correct, and complete.

Signature of licensee

Shantell Hacker

Printed name of licensee



Notary Public in and for the State of Alaska

My commission expires: 07/21/23

Subscribed and sworn to before me this 3rd day of January, 2022.



Alaska Marijuana Control Board

Form MJ-01: Marijuana Establishment Operating Plan**What is this form?**

An operating plan is required for all marijuana establishment license applications. Applicants should review **Title 17.38 of Alaska Statutes** and **Chapter 306 of the Alaska Administrative Code**. This form will be used to document how an applicant intends to meet the requirements of those statutes and regulations. If your business has a formal operating plan, you may include a copy of that operating plan with your application, but all fields of this form must still be completed per 3 AAC 306.020(c).

What must be covered in an operating plan?

Applicants must identify how the proposed premises will comply with applicable statutes and regulations regarding the following:

- Control plan for persons under the age of 21
- Security
- Business records
- Inventory tracking of all marijuana and marijuana product on the premises
- Employee qualification and training
- Health and safety standards
- Transportation and delivery of marijuana and marijuana products
- Signage and advertising

Applicants must also complete the corresponding operating plan supplemental forms (**Form MJ-03, Form MJ-04, Form MJ-05, or Form MJ-06**) to meet the additional operating plan requirements for each license type.

Section 1 – Establishment & Contact Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	L&H Enterprises LLC	MJ License #:	29493		
License Type:	Standard Marijuana Cultivation Facility				
Doing Business As:	L&H Enterprises LLC				
Premises Address:	29945 Aspen Ave				
City:	Sterling	State:	Alaska	ZIP:	99672

Mailing Address:	29945 Aspen Ave				
City:	Sterling	State:	Alaska	ZIP:	99672

Designated Licensee:	Shantell Hacker				
Main Phone:	907-398-0000	Cell Phone:	907-398-0000		
Email:	shanalacie@gmail.com				



Form MJ-01: Marijuana Establishment Operating Plan

Section 2 – Control Plan for Persons Under the Age of 21

2.1. Describe how the marijuana establishment will prevent persons under the age of 21 from gaining access to any portion of the licensed premises and marijuana items:

The doors to the building are not for general public, they will be for authorized personnel only. All access doors will be locked externally at all times. These doors will only be accessed via an electronic pin code. Once opened with a pin code, the commercial grade locks will automatically lock after 10 seconds. Back up to the electronic codes, will be by key, which only owners will hold. These door codes will be specific to each authorized user, if a user is terminated/leaves the company, the code will be deleted from the system. In addition to the automatic locks, all access doors will have the manual deadbolt locked after business hours.

Section 3 – Security

Restricted Access Areas (3 AAC 306.710):

3.1. Describe how you will prevent unescorted members of the public from entering restricted access areas:

1. All Exterior doors will be locked at all times, with access only by pin code and with key back up. Pin codes will be granted to only authorized personnel, back up keys will only be held by the owners.
2. Proper signs according to 3 AAC 306.710 "Restricted access area, Visitors must be escorted." will be posted on all restricted access doorways.

3.2. Describe your recordkeeping and processes for admitting visitors into and escorting them through restricted access areas:

A record log of visitors will be kept in the authorized area. This log will have details on, visitors name, ID/DL number (Confirming age of 21+), date, time, and authorized person's name escorting them. The escort will then assign them a visitor badge, the badge number will be noted on the visitor log. The visitors will remain with the escort at all times. If the visitor has personal issues to attend to, the authorized visit will end, and they will be escorted out of the un-authorized area. Furthermore, per AAC 306.710(b) the number of visitors per escort will be limited to 5 persons.



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3.3. Provide samples of licensee-produced identification badges that will be displayed by each licensee, employee, or agent while on the premises, and of visitor identification badges that will be worn by all visitors while in restricted access areas:

<p>L&H Enterprises LLC 29945 Aspen Ave, Sterling, AK 99672</p> <p>EMPLOYEE</p> <p>PHOTO SIZE W=1 x H=1.3 in</p> <p>FIRST LAST NAME</p> <p>DESIGNATION</p> <p>DEPARTMENT DEPARTMENT</p> <p>JOINING 01-04-20XX</p> <p></p> <p>Badge Number</p>	<p>L&H Enterprises LLC 29945 Aspen Ave, Sterling, AK 99672</p> <p>Visitor</p> <p>By</p> <p>Escort</p> <p>Only</p> <p></p> <p>Visitor # X</p>
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Security Alarm Systems and Lock Standards (3 AAC 306.715):

3.4. Exterior lighting is required to facilitate surveillance. Describe how the exterior lighting will meet this requirement:

There will be outside flood lights on each of the doorways as well as an extra large commercial security light on the peak of the North side of the facility.



Form MJ-01: Marijuana Establishment Operating Plan

3.5. An alarm system is required for all license types that must be activated on all exterior doors and windows when the licensed premises is closed for business. Describe the security alarm system for the proposed premises, explain how it will meet all regulatory requirements, and outline your policies and procedures regarding the actions to be taken by a licensee, employee, or agent when the alarm system alerts of an unauthorized breach:

1. All door sensors security systems will be ran through YoLink, All 4 doors will have alarm sensors that will be triggered manually, once the final person has left for the day. If an alarm is triggered the owners will be notified on their mobile devices. We will then notify local authorities if deemed fit.
2. Security cameras will be ran through Lorex 24/7 with 40 days of storage being held in a secured area.
2. The owners will have remote access to live footage of the security cameras. This is to help prevent false alarms, but also to escalate notification to the authorities in a timelier manner if deemed fit.

3.6. Describe your policies and procedures for preventing diversion of marijuana or marijuana product, including by employees:

Diversion of marijuana will not be tolerated at L&H Enterprises. Any person caught stealing, will be held to the fullest extent of the law. In refrence to AAC 306.730:inventory tracking. If at any time inventory tracking has discrepancies that cannot be explained, the business will close for operations until the discrepancies have been resolved. AS per inventory tracking regulations, L&H will keep active tracking up to date with Metrc

3.7. Describe your policies and procedures for preventing loitering:

1. No benches or outdoor seating available to the public
2. No public bathroom
3. No interior benches or seating available to the public
4. If loitering is apparent, they will be asked to leave the property, If, they need to be asked a second time to leave, local authorities will be notified.

You must be able to certify the statement below. Read the following and then sign your initials in the box to the right:

Initials

3.8. I certify that if any additional security devices are used, such as a motion detector, pressure switch, and duress, panic, or hold-up alarm, to enhance security of the licensed premises, I will have written policies and procedures describing their use.



Form MJ-01: Marijuana Establishment Operating Plan

Video Surveillance (3 AAC 306.720):

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

3.9. The video surveillance and camera recording system for the licensed premises covers each restricted access area, and both the interior and exterior of each entrance to the facility.

SW

3.10. Each video surveillance recording: is preserved for a minimum of 40 days, in a format that can be easily accessed for viewing (consistent with the Alcohol & Marijuana Control Office's approved format list); clearly and accurately displays the time and date; and is archived in a format that does not permit alteration of the recorded image.

SW

3.11. The surveillance room or area is clearly defined on the Form MJ-02: Premises Diagram that is submitted with this application.

SW

3.12. Surveillance recording equipment and video surveillance records are housed in a designated, locked, and secure area or in a lock box, cabinet, closet or other secure area where access is limited to the licensee(s), an authorized employee, and law enforcement personnel (including an agent of the Marijuana Control Board).

SW

3.13. Describe how the video cameras will be placed to produce a clear view adequate to identify any individual inside the licensed premises, or within 20 feet of each entrance to the licensed premises:

Security camera will be placed within the building, to allow no "black out" spots per 3 ACC 306.720. This will include all restricted areas. The entrance/exit to the restricted areas will also have security cameras placed per 3 ACC 306.720 regulations.

3.14. Describe the locked and secure area where video surveillance recording equipment and original copies of surveillance records will be housed and stored, and how you will ensure the area is accessible only to authorized personnel, law enforcement, or an agent of the Marijuana Control Board. If you will be using an offsite monitoring service and offsite storage of video surveillance records, your response must include how the offsite facility will meet these security requirements:

1. All security surveillance footage will be kept per regulation 3ACC 306.720, a minimum of 40 days. of course, if there is any footage that is deemed to be criminal or maybe of interest to authorities, this will be held longer and handed over to the authorities as needed.
2. The surveillance storage devices will be in the restricted access area and will be kept in a locked cabinet. The access to this cabinet, will only by the owners and authorities.



Form MJ-01: Marijuana Establishment Operating Plan

Section 4 – Business Records

Review the requirements under 3 AAC 306.755. All licensed marijuana establishments must maintain, in a format that is readily understood by a reasonably prudent business person, certain business records.

4.1. I certify that the following business records will be maintained and kept on the licensed premises:

Initials

- a. all books and records necessary to fully account for each business transaction conducted under my license for the current year and three preceding calendar years (records for the last six months must be maintained on the licensed premises; older records may be archived on or off-premises);
- b. a current employee list setting out the full name and marijuana handler permit number of each licensee, employee, and agent who works at the marijuana establishment;
- c. the business contact information for vendors that maintain video surveillance systems and security alarm systems for the licensed premises;
- d. records related to advertising and marketing;
- e. a current diagram of the licensed premises, including each restricted access area;
- f. a log recording the name, and date and time of entry of each visitor permitted into a restricted access area;
- g. all records normally retained for tax purposes;
- h. accurate and comprehensive inventory tracking records that account for all marijuana inventory activity from seed or immature plant stage until the retail marijuana or retail marijuana product is sold to a consumer, to another marijuana establishment, or destroyed;
- i. transportation records for marijuana and marijuana product, as required by 3 AAC 306.750(f); and
- j. registration and inspection reports of scales registered under the Weights and Measures Act, as required by 3 AAC 306.745.

[Handwritten initials in boxes for items a through j]

4.2. A marijuana establishment is required to exercise due diligence in preserving and maintaining all required records. Describe how you will prevent records and data, including electronically maintained records, from being lost or destroyed:

1. Physical documents and records will be kept in the restricted access area. Current records and documents will be kept in a locking filing cabinet. Documents older than 60 days, will be housed in a secured cabinet; this cabinet will only be accessed by the owners.
2. The computers or hard drives storing any electronic documents will be locked physically by a cable to a secure point, in the restricted access area. These locks will only be managed by the owners.
3. Periodically, these digital files will be backed up to a hard drive and stored with the physical documents under lock and key.

**Form MJ-01: Marijuana Establishment Operating Plan****Section 5 – Inventory Tracking of All Marijuana and Marijuana Product**

Review the requirements under 3 AAC 306.730. All licensed marijuana establishments must use a marijuana inventory tracking system capable of sharing information with Metrc to ensure all marijuana cultivated and sold in the state, and each marijuana product processed and sold in the state, is identified and tracked from the time the marijuana is propagated from seed or cutting, through transfer to another licensed marijuana establishment, or use in manufacturing a marijuana product, to a completed sale of marijuana or marijuana product, or disposal of the harvest batch of marijuana or production lot of marijuana product.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

5.1. My marijuana establishment will be using Metrc, and if any other tracking software is used, it will be capable of sharing information with Metrc.

5.2. All marijuana delivered to a marijuana establishment will be weighed on a scale registered in compliance with 3 AAC 306.745.

5.3. My marijuana establishment will use registered scales in compliance with AS 45.75.080 (Weights and Measures Act), as required by 3 AAC 306.745.

Section 6 – Employee Qualification and Training

Review the requirements under 3 AAC 306.700. All licensees, and every employee or agent of the marijuana establishment who sells, cultivates, manufactures, tests, or transports marijuana or a marijuana product, or who checks the identification of a consumer or visitor, must obtain a marijuana handler permit from the board before being licensed or beginning employment at a marijuana establishment.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

6.1. All licensees, and each employee or agent of the marijuana establishment who sells, cultivates, manufactures, tests, or transports marijuana or marijuana product, or who checks the identification of a consumer or visitor, shall obtain a marijuana handler permit from the board before being licensed or beginning employment at the marijuana establishment.

6.2. Each licensee, employee, or agent who is required to have a marijuana handler permit shall keep that person's marijuana handler permit card in that person's immediate possession (or a valid copy on file on the licensed premises) when on the licensed premises.

6.3. Each licensee, employee, or agent who is required to have a marijuana handler permit shall ensure that that person's marijuana handler permit card is valid and has not expired.





6.4. Describe any in-house training that will be provided to employees and agents (apart from a marijuana handler course):

Weighing, packaging, transporting & labeling, will be some of the in house training for all authorized personnel. Following all guidelines and laws is of utmost importance to L&H Enterprises.

**Form MJ-01: Marijuana Establishment Operating Plan****Section 7 – Health and Safety Standards**

Review the requirements under 3 AAC 306.735.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

- 7.1. I understand that a marijuana establishment is subject to inspection by the local fire department, building inspector, or code enforcement officer to confirm that health or safety concerns are not present. 
- 7.2. I have policies regarding health and safety standards (including: ensuring a person with an illness or infection does not come into contact with marijuana or marijuana product; good hygienic practices; cleaning and maintenance of equipment and the premises; pest deterrence; chemical storage; sanitation principles; and proper handling of marijuana and marijuana product) and will take all reasonable measures and precautions to ensure that they are met or exceeded. 
- 7.3. I have policies to ensure that any marijuana or marijuana product that has been stored beyond its usable life, or was stored improperly, is not salvaged and returned to the marketplace. 
- 7.4. I have policies to ensure that in the event information about the age or storage conditions of marijuana or marijuana product is unreliable, the marijuana or marijuana product will be handled in accordance with 3 AAC 306.735(d). 

Answer "Yes" or "No" to each of the following questions:

Yes No

- 7.5. Adequate and readily accessible toilet facilities that are maintained and in good repair and sanitary condition are clearly indicated on my Form MJ-02: Premises Diagram. ☐ Yes ☒ No

- 7.6. Convenient handwashing facilities with running water at a suitable temperature are clearly indicated on my Form MJ-02: Premises Diagram. ☐ Yes ☒ No

- 7.7. If you answered "No" to either 7.5 or 7.6 above, describe how toilet and/or handwashing facilities are made accessible, as required by 3 AAC 306.735(b)(2):

Facilities are located in the building next door to the cultivation facility & are accessible to all authorized personnel.

Section 8 – Transportation and Delivery of Marijuana and Marijuana Products

Review the requirements under 3 AAC 306.750.

- 8.1. Describe how marijuana or marijuana product will be prepared, packaged, and secured for shipment. Include a description of the type of locked, safe, and secure storage compartments to be used in vehicles transporting marijuana or marijuana product:

Marijuana will be prepared for transport, in opaque, air tight, food grade bags. These bags will be shipped in the secure trunk area, inside a tamper-apparent container, of a discrete vehicle. To prevent movement during transportation, the containers will be secured in the vehicle using the appropriate tie downs. The vehicle will not be labeled or have advertisements for the company as to mitigate any unwanted attention. Appropriate shipping documents, transport manifest, and handling will be the sole responsibility of the driver. After loaded, the vehicle will remain locked and secure at all times. Per 306.750 the vehicle will travel directly to the retail/manufacturing facility, with no unnecessary stops in between.



Form MJ-01: Marijuana Establishment Operating Plan

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

8.2. The marijuana establishment from which a shipment of marijuana or marijuana product originates will ensure that any individual transporting marijuana shall have a marijuana handler permit required under 3 AAC 306.700.

8.3. The marijuana establishment that originates the transport of any marijuana or marijuana product will use the marijuana inventory tracking system to record the type, amount, and weight of marijuana or marijuana product being transported, the name of the transporter, the time of departure and expected delivery, and the make, model, and license plate number of the transporting vehicle.

8.4. The marijuana establishment that originates the transport of any marijuana or marijuana product will ensure that a complete printed transport manifest on a form prescribed by the board must be kept with the marijuana or marijuana product at all times during transport.

8.5. During transport, any marijuana or marijuana product will be in a sealed package or container in a locked, safe, and secure storage compartment in the vehicle transporting the marijuana or marijuana product, and the sealed package will not be opened during transport.

8.6. Any vehicle transporting marijuana or marijuana product will travel directly from the shipping marijuana establishment to the receiving marijuana establishment, and will not make any unnecessary stops in between except to deliver or pick up marijuana or marijuana product at any other licensed marijuana establishment.

8.7. When the marijuana establishment receives marijuana or marijuana product from another licensed marijuana establishment, the recipient of the shipment will use the marijuana inventory tracking system to report the type, amount, and weight of marijuana or marijuana product received.

8.8. The marijuana establishment will refuse to accept any shipment of marijuana or marijuana product that is not accompanied by the transport manifest.

Section 9 – Signage and Advertising

Review the requirements under 3 AAC 306.770.

9.1. Describe any signs that you intend to post on your establishment, including quantity, dimensions, graphics, and location on your establishment (photos or drawings may be attached):

No signs will be posted on the cultivation facility



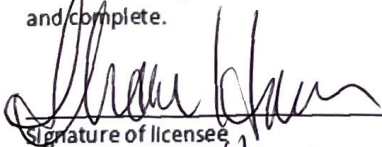
Form MJ-01: Marijuana Establishment Operating Plan

9.2. Describe any advertising you intend to distribute for your establishment. Include medium types and business logos (photos or drawings may be attached):

Our Logo will be a simple bold print L&H with enterprise written underneath

L&H
enterprises

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.


Signature of licensee

Sharon Becker
Printed name of licensee



OFFICIAL SEAL
Michele Turner
Notary Public - State of Alaska


Notary Public in and for the State of Alaska

My commission expires: 9/20/2023

Subscribed and sworn to before me this 10th day of May, 2021.



Form MJ-01: Marijuana Establishment Operating Plan

(Additional Space as Needed):

N/A



Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
Phone: 907.269.0350

Alaska Marijuana Control Board Form MJ-02: Premises Diagram

What is this form?

A detailed diagram of the proposed licensed premises is required for all marijuana establishment license applications, per 3 AAC 306.020(b)(8). **All areas designated as the licensed premises of a single license must be contiguous. All diagrams must have the licensed premises area labeled, and outlined or shaded as appropriate.**

What must be submitted with this form?

Applicants must attach multiple diagrams to this form, including (as applicable):

- **Diagram 1:**
a diagram showing only the licensed premises areas that will be ready to be **operational at the time of your preliminary inspection** and license issuance;
- **Diagram 2:**
if different than Diagram 1, a diagram outlining **all areas for which the licensee has legal right of possession** (a valid lease or deed), and clearly showing those areas' relationship to the current proposed licensed premises (*details of any planned expansion areas do not need to be included; a complete copy of Form MJ-14: Licensed Premises Diagram Change must be submitted and approved before any planned expansion area may be added to the licensed premises*);
- **Diagram 3:**
a **site plan or as-built of the entire lot**, showing all structures on the property and clearly indicating which area(s) will be part of the licensed premises;
- **Diagram 4:**
an **aerial photo of the entire lot and surrounding lots**, showing a view of the entire property and surrounding properties, and clearly indicating which area(s) will be part of the licensed premises (*this can be obtained from sources like Google Earth*); and
- **Diagram 5:**
a diagram of the **entire building in which the licensed premises is located**, clearly distinguishing the licensed premises from unlicensed areas and/or premises of other licenses within the building. If your proposed licensed premises is located within a building or building complex that contains multiple business and/or tenants, please provide the addresses and/or suite numbers of the other businesses and/or tenants (*a separate diagram is not required for an establishment that is designating the entire building as a single licensed premises*).

This form, and all necessary diagrams that meet the requirements on Page 2 of this form, must be completed and submitted to AMCO's main office before any new or transfer license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	L&H Enterprises LLC	MJ License #:	29493		
License Type:	Standard Marijuana Cultivation Facility				
Doing Business As:	L&H Enterprises LLC				
Premises Address:	29945 Aspen Ave				
City:	Sterling	State:	Alaska	ZIP:	99672



Alaska Marijuana Control Board

Form MJ-02: Premises Diagram

Section 2 – Required Information

For your security, do not include locations of security cameras, motion detectors, panic buttons, and other security devices. Items marked with a double asterisks (**) are only required for those retail marijuana establishments that are also applying for an onsite consumption endorsement.

The following details must be included in all diagrams:

- ☐ License number and DBA
- ☐ Legend or key
- ☐ Color coding
- ☐ Licensed Premises Area Labeled and Shaded, or Outlined as appropriate
- ☐ Dimensions
- ☐ Labels
- ☐ True north arrow

The following additional details must be included in Diagram 1:

- ☐ Surveillance room
- ☐ Restricted access areas
- ☐ Storage areas
- ☐ Entrances, exits, and windows
- ☐ Walls, partitions, and counters
- ☐ Any other areas that must be labeled for specific license or endorsement types
- ☐ ** Serving area(s)
- ☐ **Employee monitoring area(s)
- ☐ **Ventilation exhaust points, if applicable

The following additional details must be included in Diagram 2:

- ☐ Areas of ingress and egress
- ☐ Entrances and exits
- ☐ Walls and partitions

The following additional details must be included in Diagrams 3 and 4:

- ☐ Areas of ingress and egress
- ☐ Cross streets and points of reference

The following additional details must be included in Diagram 5:

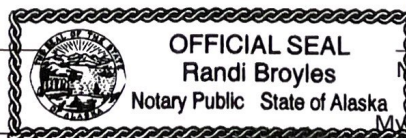
- ☐ Areas of ingress and egress
- ☐ Entrances and exits
- ☐ Walls and partitions
- ☐ Cross streets and points of reference

I declare under penalty of unsworn falsification that I have attached all necessary diagrams that meet the above requirements, and that this form, including all accompanying schedules, statements, and depictions is true, correct, and complete.

Signature of licensee

Shana Hacker

Printed name of licensee



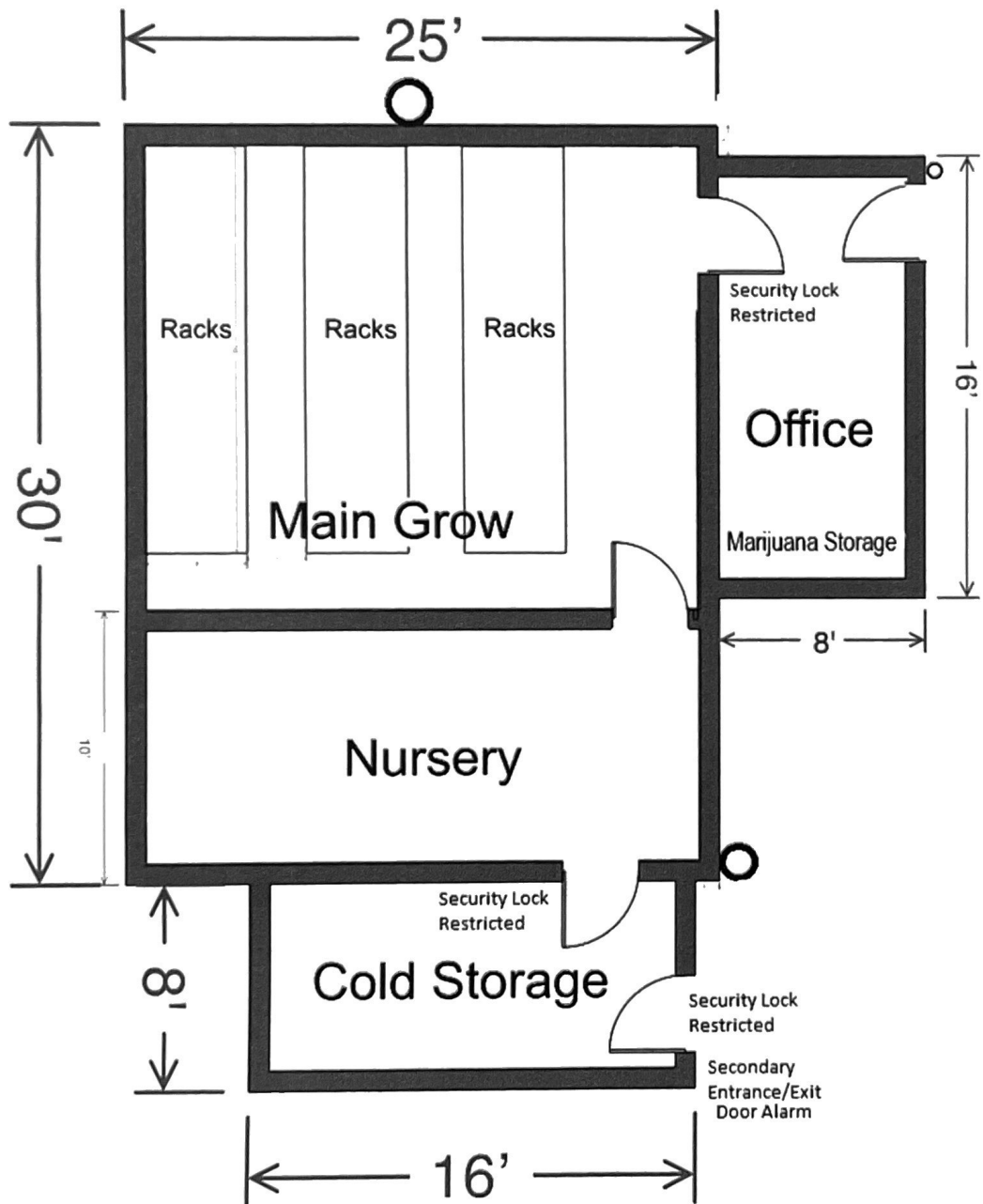
Notary Public in and for the State of Alaska

My commission expires: 07/21/23

Subscribed and sworn to before me this 3rd day of January, 2022.

29493

Received by AMCO 1/3/2022

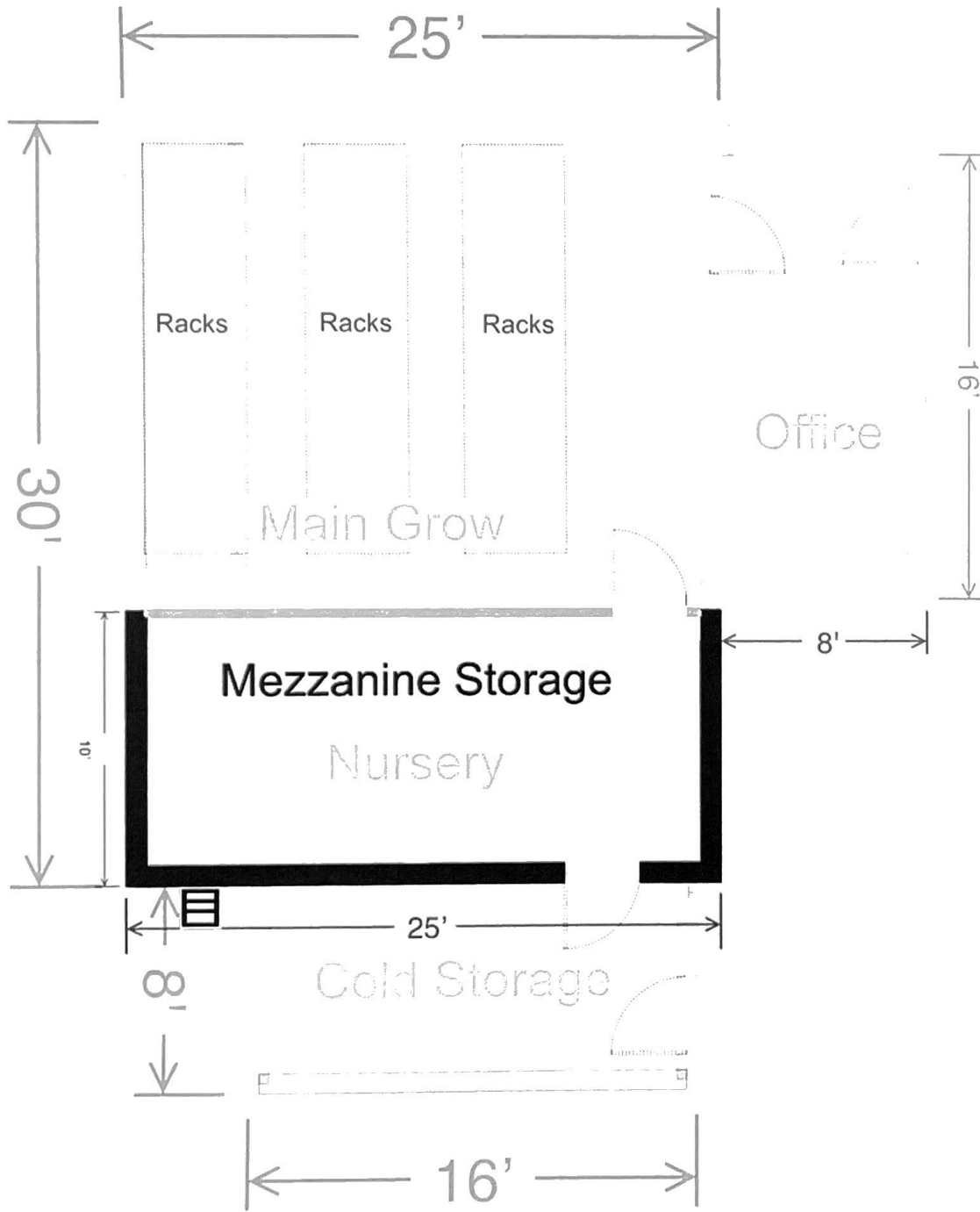





License # 29493	DBA: L & H Enterprises LLC
Diagram 1,2,5	
Door	24 Hr Outside Light
	Exhaust Vent

Main Entrance/Exit
Door Alarm
Security Lock
Restricted

Entire Premise
Restricted Access
Only



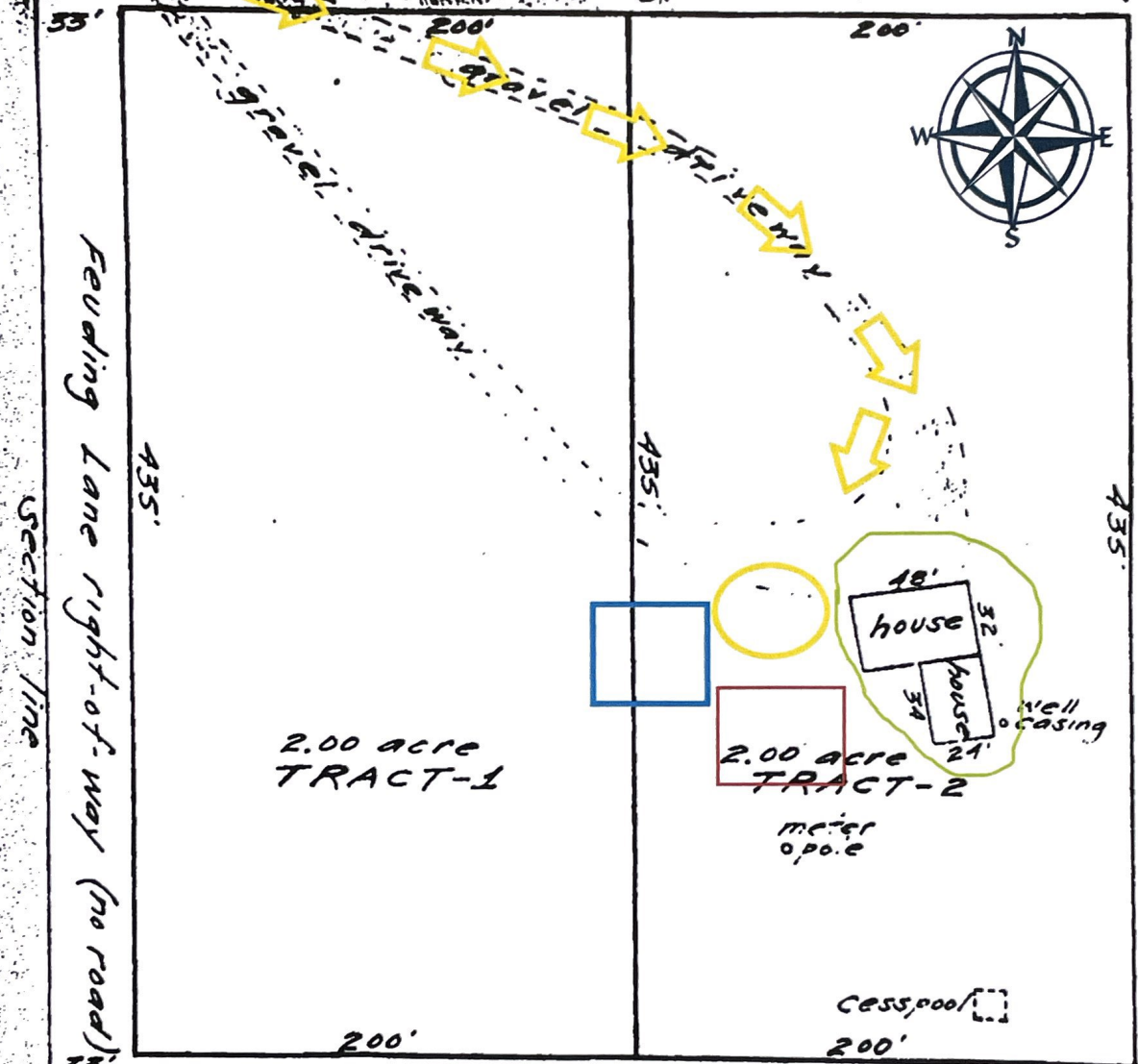


License # 29493		DBA: L & H Enterprises LLC	
Diagram 1,2,5 Cont			
 Door		 24 Hr Outside Light	
		 Exhaust Vent	



Scale
1" = 60'

centerline of section 23, T5N, R5W, S. 1
Aspen Road right-of-way (no road)







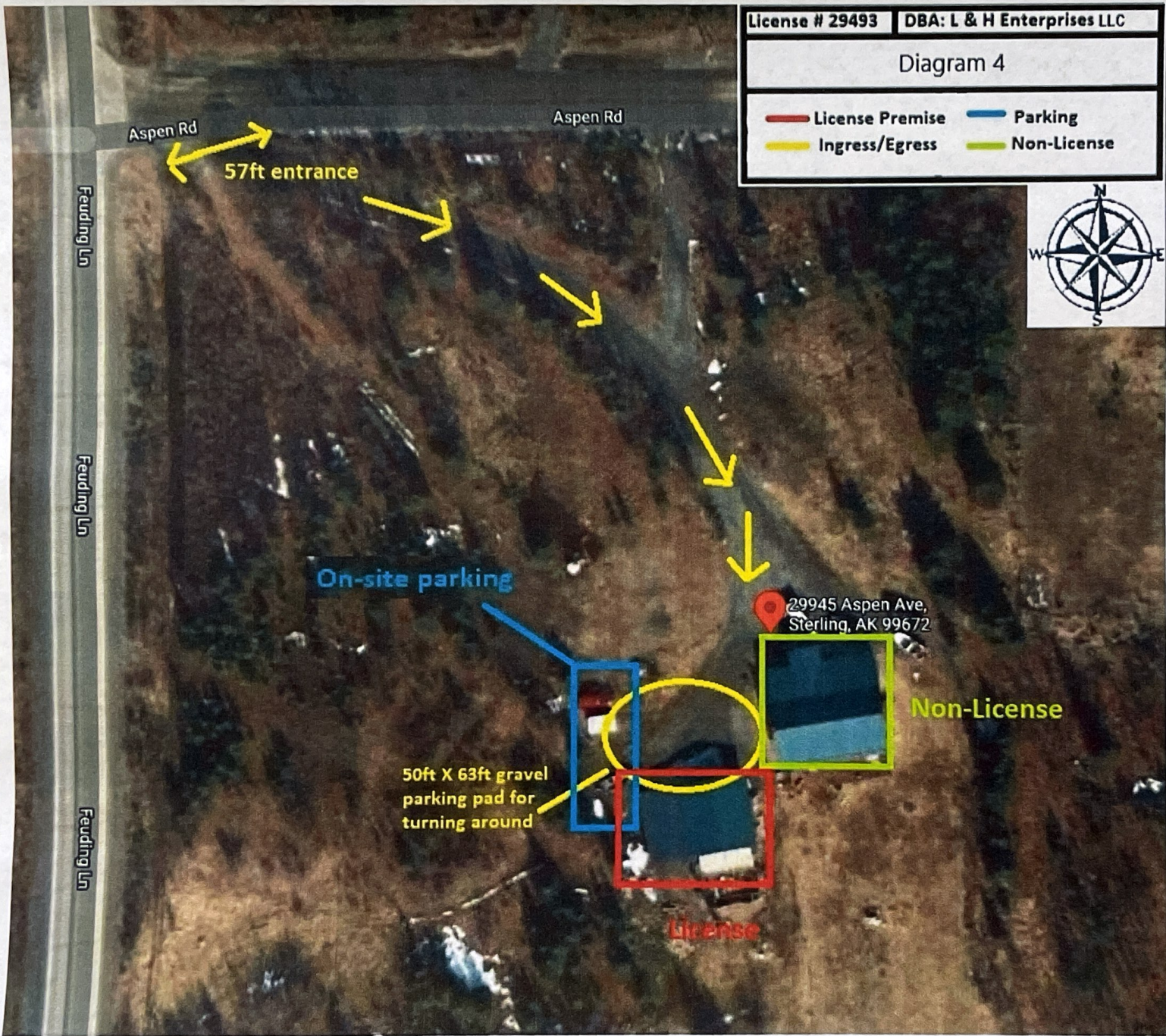
I HEREBY CERTIFY THAT I HAVE SURVEYED THE FOLLOWING DESCRIBED PROPERTY: TRACTS 1 & 2 OF THE GREEN ACRES SUBDIVISION, KENAI RECORDING PRECINCT, ALASKA; AND THAT THE IMPROVEMENTS ARE WITHIN THE PROPERTY LINES AS SHOWN, THAT NO IMPROVEMENTS ON THE ADJOINING PROPERTY ENCRDACH ON SAID TRACTS 1 & 2, AND THAT THERE ARE NO ROADWAYS, TRANSMISSION LINES OR OTHER VISIBLE EASEMENTS ACROSS THESE TRACTS.

BY: CHARLES L. PARKER, N.L.S. 237
C.L.P. ~~XXXXXXXXXX~~ SOLDOTNA, ALASKA
October 25, 1976,



License # 29493	DBA: L & H Enterprises LLC
Diagram 3	
License Premise	Parking
Ingress/Egress	Non-License

License # 29493	DBA: L & H Enterprises LLC
Diagram 4	
 License Premise	 Parking
 Ingress/Egress	 Non-License





Alcohol and Marijuana Control Office

550 W 7th Avenue, Suite 1600

Anchorage, AK 99501

marijuana.licensing@alaska.gov

<https://www.commerce.alaska.gov/web/amco>

Phone: 907.269.0350

Alaska Marijuana Control Board Operating Plan Supplemental

Form MJ-04: Marijuana Cultivation Facility

What is this form?

This operating plan supplemental form is required for all applicants seeking a marijuana cultivation facility license and must accompany **Form MJ-01: Marijuana Establishment Operating Plan**, per 3 AAC 306.020(b)(11). Applicants should review **Chapter 306: Article 4** of the **Alaska Administrative Code**. This form will be used to document how an applicant intends to meet the requirements of the statutes and regulations.

If your business has a formal operating plan, you may include a copy of that operating plan with your application, but all fields of this form must still be completed per 3 AAC 306.020 and 3 AAC 306.420(2).

What additional information is required for cultivation facilities?

Applicants must identify how the proposed establishment will comply with applicable regulations regarding the following:

- Prohibitions
- Cultivation plan
- Waste disposal
- Odor control
- Testing procedure and protocols
- Packaging and labeling

This form must be completed and submitted to AMCO's main office before any new or transfer application for a standard marijuana cultivation facility or limited marijuana cultivation facility license will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	L&H Enterprises LLC	MJ License #:	29493		
License Type:	Standard Marijuana Cultivation Facility				
Doing Business As:	L&H Enterprises LLC				
Premises Address:	29945 Aspen Ave				
City:	Sterling	State:	Alaska	ZIP:	99672



Form MJ-04: Marijuana Cultivation Facility Operating Plan Supplemental

Section 2 – Overview of Operations

2.1. Provide an overview of your proposed facility's operations. Include information regarding the flow of marijuana from seed or clone to harvest and transfer from your premises:

Germination and cloning will be done in the nursery room, once plants are rooted and in vegg state they will be moved to the main flowering room and placed on one of the 3 level rack systems with containment trays under each plant. Each plant will be assigned a batch # tracked through the marijuana tracking system.

Once the plants are mature, they will be harvested and cured in the same main growing room where tempature and humidity can be controlled.

Once cured each strain will be segregated and placed inside opaque plastic food grade bags, inside an air tight 5 gallon food safe bucket, inside a locked double door cabinet.

Any marijuana product leaving the facility will be logged in the MITS program, with a transport manifest kept with said product at all times.

Section 3 – Prohibitions

Review the requirements under 3 AAC 306.405 and 3 AAC 306.410.

3.1. I certify that the marijuana cultivation facility will not:

Initials

- a. sell, distribute, or transfer any marijuana or marijuana product to a consumer, with or without compensation;
- b. allow any person, including a licensee, employee, or agent, to consume marijuana or marijuana product on the licensed premises or within 20 feet of the exterior of any building or outdoor cultivation facility; or
- c. treat or otherwise adulterate marijuana with any organic or nonorganic chemical or compound to alter the color, appearance, weight, or odor of the marijuana.



Section 4 – Cultivation Plan

Review the requirements under 3 AAC 306.420 and 3 AAC 306.430.

4.1. Describe the size of the space(s) the marijuana cultivation facility intends to be under cultivation, including dimensions and overall square footage. Provide your calculations below:

Nursery is a 10' x 25' inclosed room located on the south end of the cultivation facility, equaling 250 square feet of space.

Vegg/Flower area will be a large 30' x 25' vaulted ceiling room with mezzanine on the south end wall. The square footage is 750 square feet.



Alaska Marijuana Control Board

Form MJ-04: Marijuana Cultivation Facility Operating Plan Supplemental

You must be able to certify the statement below. Read the following and then sign your initials in the box to the right:

Initials

4.2. The proposed area(s) for cultivation are clearly identified on the Form MJ-02: Premises Diagram that is submitted with this application.

Answer "Yes" or "No" to the following question:

Yes

No

4.3. Will the marijuana cultivation facility include outdoor production?

☐☒

If "Yes", describe the outdoor structure(s) or the expanse of open or clear ground and how it is fully-enclosed by a physical barrier:

4.4. Describe the method(s) used to ensure that any marijuana at the marijuana cultivation facility, whether indoors or outdoors, cannot be observed by the public from outside the facility:

All grow rooms are inclosed in a secure building with no windows and protected by code only locks with additional deadbolts. Furthermore, the grow rooms are seperated from the outside entry of the building by a seperate locked entryway.

4.5. Describe the marijuana cultivation facility's growing medium(s) to be used:

We will be using a commercial growers blend of soil.

4.6. Provide the complete product name and EPA registration # (if applicable) for each of the cultivation facility's pesticide and pest control product to be used. All proposed products must be on DEC's list of approved pesticides in the state of Alaska:

1. Lost Coast Plant Therapy, Which is exempt under FIFRA section 25(b) as a minimum risk pesticide.
2. Safer Brand, #567 Pyrethrin & Insecticidal Soap concentrate EPA #59913-9

4.7. Describe all other fertilizers, chemicals, gases, and delivery systems, including carbon dioxide management, to be used at the marijuana cultivation facility:

1. Jacks Profesional (fertilizer) 25-5-15
2. Jacks Bloom Boost (fertilizer) 10-30-20
3. Raw Kelp (fertilizer) 0-0-1
4. CloneX Solution 1-0.6-1
5. Clonex Rooting Gel
6. Unsulfured Molasses

* We do not plan on using any gases in the cultivation facility.

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Form MJ-04: Marijuana Cultivation Facility Operating Plan Supplemental

4.8. Describe the marijuana cultivation facility's irrigation and waste water systems to be used:

Due to all watering sources being held in (2) 500 gallon containers, and watering being done by hand, there should be no waste water or irrigation system required.
Any feeding solutions that have been flushed through the growing medium will be caught in growing trays below each pot, which will be drained & collected to be recycled.

Section 5 – Waste Disposal

Review the requirements under 3 AAC 306.740.

You must be able to certify the statement below. Read the following and then sign your initials in the box to the right:

Initials

5.1. The marijuana cultivation facility shall give the board at least three days written notice required under 3 AAC 306.740(c) before making marijuana waste unusable and disposing of it.

5.2. Describe how you will store, manage, and dispose of any solid or liquid marijuana waste, including wastewater generated during marijuana cultivation, in compliance with any applicable laws. Include details about the material(s) you will mix with ground marijuana waste and the processes that you will use to make the marijuana waste unusable for any purpose for which it was grown:

All marijuana plant waste (including roots, stalks, leaves & stems) will be stored inside a commercial trash can with a sealed lid creating odor and pest control for 3 days until said ground waste is mixed with equal amounts of wood/paper/cardboard before being double bagged with commercial grade black trash bags and disposed of at the KPB Solid Waste- Sterling Transfer Facility.

An email will be sent to the board notifying of the disposal 3 days prior to doing so.

All marijuana dirt medium will be stored in a bulk pile on-site to be recycled for gardening & landscaping needs.

All non compostable materials (plastic grow pots etc) will be gathered in commercial grade black plastic bags and deposited at the KPB Solid Waste - Sterling transfer Facility.



Form MJ-04: Marijuana Cultivation Facility Operating Plan Supplemental

Section 6 – Odor Control

Review the requirements under 3 AAC 306.430.

Answer "Yes" or "No" to the following question:

Yes

No

6.1. Have you received an exemption from your local government for the odor control requirement set forth in 3 AAC 306.430(c)(2)?

☐☒

If "Yes", you must be able to certify the statement below. Read the following and then sign your initials in the box:

Initials

I am attaching to this form documentation of my odor control exemption from the local government.

If "No" to question 6.1., describe the odor control method(s) to be used and how the marijuana cultivation facility will ensure that any marijuana at the facility does not emit an odor that is detectable by the public from outside the facility:

Air will be pre heated, circulated and odor controlled by way of a 10in charcoal filtered intake into the office space and then pulled into the main flower room by an 8 inch charcoal filtered intake. From there, air is blown out of the flower room and into the nursery by another charcoal filtered 8 inch fan and then exhausted out through the mezzanine eve by another 10inch charcoal filtered exhaust. Additionally, air will be circulated from the main flower room into the nursery by two 6 inch fans and two additional charcoal filters all tied into the central control.

Section 7 – Testing Procedure and Protocols

Review the requirements under 3 AAC 306.455 and 3 AAC 306.465.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box:

Initials

7.1. I understand and agree that the board or director will, from time to time, require the marijuana cultivation facility to provide samples of the growing medium, soil amendments, fertilizers, crop production aids, pesticides, or water for random compliance checks.

☒

7.2. I will ensure that any individual responsible for collecting random, homogenous samples for required laboratory testing under 3 AAC 306.455 will prepare the necessary accompanying signed statement, provide the signed statement to the marijuana testing facility, and maintain a copy as a business record under 3 AAC 306.755.

☒

7.3. Describe the testing procedures and protocols the marijuana cultivation facility will follow:

1. After segregating cured harvested marijuana flowers and bud they will be stored in an opaque food grade plastic bags, inside a 5 gallon bucket with sealed twist on lids.
 - a. Each segregated strain will have a random sample pulled, bagged in opaque plastic bag, labeled for testing facility (amount will vary by testing facility)
2. An authorized person will be designated to not only collect the sample but to also prepare a signed statement showing each sample has been randomly selected for testing. This sworn statement will be provided to the testing facility as well as maintaining a copy for our business records.
3. Authorized personel will fill out all information in the marijuana inventory tracking system, print a copy of the transport manifest that will be kept with the products at all times during transport.
4. Segregated strains will be stored in opaque plastic food safe bags, inside an air tight 5 gallon food safe bucket, locked inside a designated double door cabinet in the cold storage area of the cultivation facility.

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Received by AMCO 5/3/2022



Alaska Marijuana Control Board

Form MJ-04: Marijuana Cultivation Facility Operating Plan Supplemental

Section 8 – Packaging and Labeling

Review the requirements under 3 AAC 306.470 and 3 AAC 306.475.

Answer "Yes" or "No" to the following question:

Yes No

8.1. Will the marijuana cultivation facility be packaging marijuana for a retail marijuana store to sell to a consumer without repackaging?



If "Yes", describe how the marijuana cultivation facility will ensure that the marijuana sold will meet the packaging requirements in 3 AAC 306.470, and provide a sample label that the facility will use to meet the labeling requirements set forth in 3 AAC 306.475:

- All marijuana from the cultivation facility will be labeled per AAC 306.470 and AAC 306.475
1. packages will not exceed one ounce for retail store reselling (without additional handling)
 2. Each package will be labeled with a.) Cultivation name and license number b.) Harvest batch number assigned to the Marijuana in the package c.) Net weight of marijuana in the package d.) Name of strain
 3. Warning statements 1-5 as in AAC 306.475 (see sample label in additional space on page 7)
 4. Each package will be an opaque, child resistant, resealable container.
 5. Each package will have the generated tracking number from the marijuana tracking system.
 6. Complete list of all pesticides, fungicides, and herbicides.
 7. Name of licensed marijuana testing facility that preformed the required lab testing.

Answer "Yes" or "No" to the following question:

Yes No

8.2. Will the marijuana cultivation facility be packaging marijuana in wholesale packages?

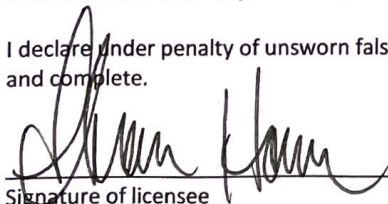


If "Yes", describe how the marijuana cultivation facility will ensure that the marijuana sold will meet the packaging requirements in 3 AAC 306.470, and provide a sample label that the facility will use to meet the labeling requirements set forth in 3 AAC 306.475:

1. Wholesale packages will not exceed 5 pounds per AAC 306.470 to either retail stores or to a manufacturing facility.
2. Each package will be labeled with a.) Cultivation name and license number b.) harvest batch number assigned to the marijuana in the package c.) net weight of marijuana in the package d.) name of strain
3. Each wholesale package will have the generated tracking number provided by the marijuana tracking system
4. Testing results including all required tests under AAC 306.645 (1-4)
5. Each wholesale package will have a label affixed to the tamper-evident container it will be shipped in, along with the shipping manifest generated in the marijuana tracking system.

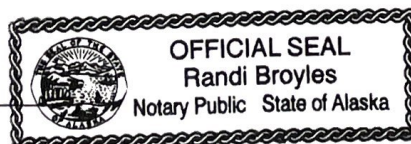
I certify that as a marijuana cultivation facility, I will submit monthly reports to the Department of Revenue and pay the excise tax required under AS 43.61.010 and AS 43.61.020 on all marijuana sold or provided as a sample to a marijuana establishment, as required under 3 AAC 306.480.

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.


Signature of licensee

Shana Hacker

Printed name of licensee




Notary Public in and for the State of Alaska

My commission expires: 07/21/23

Subscribed and sworn to before me this 3rd day of January, 2022.

29493

Received by AMCO 1/3/22



Form MJ-04: Marijuana Cultivation Facility Operating Plan Supplemental

(Additional Space as Needed):

Sample label for 8.1 & 8.2

Grown By L&H Enterprises #29493

3.5g Marijuana

Strain: God Bud

HB #11XXX

THC: 20.02%

Fungicides, Herbicides, Pesticides: None

MIT Tracking # xxxxxx

Testing Facilities name

(1) Marijuana has intoxicating effects and may be habit forming and addictive. (2) Marijuana impairs concentration, coordination, and judgement. Do not operate a vehicle or machinery under its influence. (3) There are health risks associated with consumption of marijuana. (4) For use only by adults twenty-one and older. Keep out of the reach of children. (5) Marijuana should not be used by women who are pregnant or breast feeding.



Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-07: Public Notice Posting Affidavit

What is this form?

A public notice posting affidavit is required for all marijuana establishment license applications, per 3 AAC 306.020(b)(10). As soon as practical after initiating a marijuana establishment license application, an applicant must give notice of the application to the public by posting a true copy of the application for ten (10) days at the location of the proposed licensed premises and one other conspicuous location in the area of the proposed premises, per 3 AAC 306.025(b)(1).

This form must be completed and submitted to AMCO's main office before any new or transfer license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	L&H Enterprises LLC	License Number:	29493		
License Type:	Standard Marijuana Cultivation Facility				
Doing Business As:	L&H Enterprises LLC				
Premises Address:	29945 Aspen Ave				
City:	Sterling	State:	AK	ZIP:	99672

Section 2 – Certification

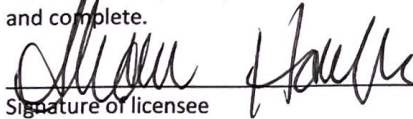
I certify that I have met the public notice requirement set forth under 3 AAC 306.025(b)(1) by posting a copy of my application for the following 10-day period at the location of the proposed licensed premises and at the following conspicuous location in the area of the proposed premises:

Start Date: 12-3-21

End Date: 12-13-21

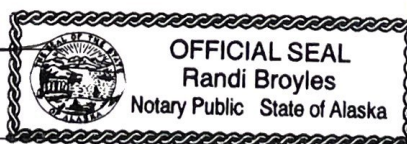
Other conspicuous location: Sterling Post Office


I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.


Signature of licensee

Shana Hacker

Printed name of licensee




Notary Public in and for the State of Alaska

My commission expires: 07/21/23

Subscribed and sworn to before me this 3rd day of January, 20 22.



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Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-08: Local Government Notice Affidavit

What is this form?

A local government notice affidavit is required for all marijuana establishment license applications with a proposed premises that is located within a local government, per 3 AAC 306.025(b)(3). As soon as practical after initiating a marijuana establishment license application, an applicant must give notice of the application to the public by submitting a copy of the application to each local government and any community council in the area of the proposed licensed premises. For an establishment located inside the boundaries of city that is within a borough, both the city and the borough must be notified.

This form must be completed and submitted to AMCO's main office before any new or transfer license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	L&H Enterprises LLC	License Number:	29493		
License Type:	Standard Marijuana Cultivation Facility				
Doing Business As:	L&H Enterprises LLC				
Premises Address:	29945 Aspen Ave				
City:	Sterling	State:	AK	ZIP:	99672

Section 2 – Certification

I certify that I have met the local government notice requirement set forth under 3 AAC 306.025(b)(3) by submitting a copy of my application to the following local government (LG) official(s) and community council (if applicable):

Local Government(s): Kenai Peninsula Borough Date Submitted: 4/22/2021

Name/Title of LG Official 1: Tatyana Shassetz Name/Title of LG Official 2: _____
clerk admin. assistant

Community Council: _____ Date Submitted: _____
(Municipality of Anchorage and Matanuska-Susitna Borough only)

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

[Signature]
Signature of licensee

Shana Hacker
Printed name of licensee



[Signature]
Notary Public in and for the State of Alaska
My commission expires: 9/20/2023

Subscribed and sworn to before me this 10th day of May, 2021.



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Alaska Marijuana Control Board

Form MJ-08: Local Government Notice Affidavit

What is this form?

A local government notice affidavit is required for all marijuana establishment license applications with a proposed premises that is located within a local government, per 3 AAC 306.025(b)(3). As soon as practical after initiating a marijuana establishment license application, an applicant must give notice of the application to the public by submitting a copy of the application to each local government and any community council in the area of the proposed licensed premises. For an establishment located inside the boundaries of city that is within a borough, both the city and the borough must be notified.

This form must be completed and submitted to AMCO's main office before any new or transfer license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	L&H Enterprises LLC	License Number:	29493		
License Type:	Standard Marijuana Cultivation Facility				
Doing Business As:	L&H Enterprises LLC				
Premises Address:	29945 Aspen Ave				
City:	Sterling	State:	AK	ZIP:	99672

Section 2 – Certification

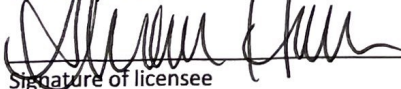
I certify that I have met the local government notice requirement set forth under 3 AAC 306.025(b)(3) by submitting a copy of my application to the following local government (LG) official(s) and community council (if applicable):

Local Government(s): Kendi Peninsula Borough Date Submitted: 01/03/22

Name/Title of LG Official 1: _____ Name/Title of LG Official 2: _____

Community Council: _____ Date Submitted: _____
(Municipality of Anchorage and Matanuska-Susitna Borough only)

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.


Signature of licensee

Shana Hacker

Printed name of licensee




Notary Public in and for the State of Alaska

My commission expires: 07/21/23

Subscribed and sworn to before me this 3rd day of January, 2022.



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marijuana.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-09: Statement of Financial Interest

What is this form?

A statement of financial interest completed by each proposed licensee (as defined in 3 AAC 306.020(b)(2)) is required for all marijuana establishment license applications, per 3 AAC 306.020(b)(4). A person other than a licensee may not have direct or indirect financial interest (as defined in 3 AAC 306.015(e)(1)) in the business for which a marijuana establishment license is issued, per 3 AAC 306.015(a).

This form must be completed and submitted to AMCO's main office by each proposed licensee before any license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	L&H Enterprises LLC	License Number:	29493		
License Type:	Standard Marijuana Cultivation Facility				
Doing Business As:	L&H Enterprises LLC				
Premises Address:	29945 Aspen Ave				
City:	Sterling	State:	AK	ZIP:	99672

Section 2 – Individual Information

Enter information for the individual licensee.

Name:	Stephen Todd Lovelace				
Title:	Co-Owner				
SSN:		Date of Birth:			



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marijuana.licensing@alaska.gov
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Alaska Marijuana Control Board

Form MJ-09: Statement of Financial Interest

Section 3 – Certifications

I certify that no person other than a proposed licensee listed on my marijuana establishment license application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which a marijuana establishment license is being applied for.

I further certify that any ownership change shall be reported to the board as required under 3 AAC 306.040.

I understand that my fingerprints will be used to check the criminal history records of the Federal Bureau of Investigation (FBI), and that I have the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record.

The procedures for obtaining a change, correction, or updating an FBI identification record are set forth in Title 28, CFR, 16.34.

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.


Signature of licensee

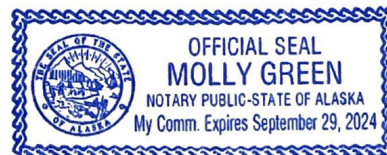
Stephen Lovelace

Printed name of licensee


Notary Public in and for the State of Alaska

My commission expires: 9.29.24

Subscribed and sworn to before me this 18 day of December, 2021.





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550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
Phone: 907.269.0350

Alaska Marijuana Control Board

Form MJ-09: Statement of Financial Interest

What is this form?

A statement of financial interest completed by each proposed licensee (as defined in 3 AAC 306.020(b)(2)) is required for all marijuana establishment license applications, per 3 AAC 306.020(b)(4). A person other than a licensee may not have direct or indirect financial interest (as defined in 3 AAC 306.015(e)(1)) in the business for which a marijuana establishment license is issued, per 3 AAC 306.015(a).

This form must be completed and submitted to AMCO's main office by each proposed licensee before any license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	L&H Enterprises LLC	License Number:	29493		
License Type:	Standard Marijuana Cultivation Facility				
Doing Business As:	L&H Enterprises LLC				
Premises Address:	29945 Aspen Ave				
City:	Sterling	State:	AK	ZIP:	99672

Section 2 – Individual Information

Enter information for the individual licensee.

Name:	Shantell Lacie Hacker				
Title:	Co-Owner				
SSN:		Date of Birth:			



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550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
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Alaska Marijuana Control Board

Form MJ-09: Statement of Financial Interest

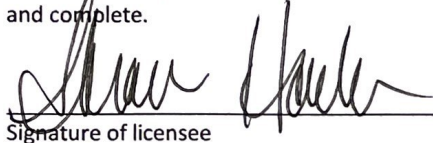
Section 3 – Certifications

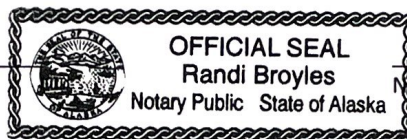
I certify that no person other than a proposed licensee listed on my marijuana establishment license application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which a marijuana establishment license is being applied for.

I further certify that any ownership change shall be reported to the board as required under 3 AAC 306.040.

I understand that my fingerprints will be used to check the criminal history records of the Federal Bureau of Investigation (FBI), and that I have the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record.
The procedures for obtaining a change, correction, or updating an FBI identification record are set forth in Title 28, CFR, 16.34.

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.


Signature of licensee




Notary Public in and for the State of Alaska

Shantell Hacker

Printed name of licensee

My commission expires: 07/21/23

Subscribed and sworn to before me this 3rd day of January, 20 22.

29493

Received by AMCO 1/3/2022

Alcohol & Marijuana Control Office

Initiating License Application

12/2/2021 2:18:07 PM

License Number: 29493**License Status:** New**License Type:** Standard Marijuana Cultivation Facility**Doing Business As:** L & H Enterprises LLC**Business License Number:** 2144780**Designated Licensee:** Shantell Hacker**Email Address:** shanalacie@gmail.com**Local Government:** Kenai Peninsula Borough**Local Government 2:** - No Local Government -**Community Council:****Latitude, Longitude:** 60.508617, -150.646350**Physical Address:** 29945 Aspen Ave
Sterling, AK 99672
UNITED STATES**Licensee #1****Type:** Entity**Alaska Entity Number:** 10158775**Alaska Entity Name:** L & H Enterprises LLC**Phone Number:** 907-398-0000**Email Address:** shanalacie@gmail.com**Mailing Address:** 29945 Aspen Avenue
Sterling, AK 99672
UNITED STATES**Entity Official #1****Type:** Individual**Name:** Stephen Lovelace**SSN:** [REDACTED]**Date of Birth:** [REDACTED]**Phone Number:** 907-953-1787**Email Address:** Stlovelace1@gmail.com**Mailing Address:** 29945 Aspen Avenue
Sterling, AK 99672
UNITED STATES**Entity Official #2****Type:** Individual**Name:** Shantell Hacker**SSN:** [REDACTED]**Date of Birth:** [REDACTED]**Phone Number:** 907-398-0000**Email Address:** shanalacie@gmail.com**Mailing Address:** PO Box 908
Sterling, AK 99672
UNITED STATES**Note:** No affiliates entered for this license.

RESIDENTIAL LEASE AGREEMENT

THIS LEASE (the "Lease") dated this 28th day of December, 2021

BETWEEN:

All Ways Alaska

(the "Landlord")

- AND -

L&H Enterprises LLC

(the "Tenant")

(individually the "Party" and collectively the "Parties")

IN CONSIDERATION OF the Landlord leasing certain premises to the Tenant and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, the Parties agree as follows:

Leased Property

1. The Landlord agrees to rent to the Tenant the Kenai Peninsula, municipally described as 29945 Aspen Ave. Sterling AK 99672 (the "Property"), for use as residential premises only.
2. Subject to the provisions of this Lease, apart from the Tenant, no other persons will live in the Property without the prior written permission of the Landlord.
3. No guests of the Tenants may occupy the Property for longer than one week without the prior written consent of the Landlord.
4. No animals are allowed to be kept in or about the Property.

5. Parking space is not provided under the terms of this Lease and no vehicle may park on or about the Property.
6. The Tenant and members of the Tenant's household will not smoke anywhere in the Property nor permit any guests or visitors to smoke in the Property.
7. The Tenant and members of the Tenant's household will not vape anywhere in the Property nor permit any guests or visitors to vape in the Property.

Term

8. The term of the Lease commences at 12:00 noon on December 28, 2021 and ends at 12:00 noon on December 28, 2022.
9. Any notice to terminate this tenancy must comply with the applicable legislation of the State of Alaska (the "Act").

Rent

10. Subject to the provisions of this Lease, the rent for the Property is \$2,500.00 per month (the "Rent").
11. The Tenant will pay the Rent on or before the first (1st) day of each and every month of the term of this Lease to the Landlord at 29945 Aspen Ave. Sterling AK 99672 or at such other place as the Landlord may later designate by cash or check.
12. The Landlord may increase the Rent for the Property upon providing to the Tenant such notice as required by the Act.

Inspections

13. The Tenant acknowledges that the Tenant inspected the Property, including the grounds and all buildings and improvements, and that they are, at the time of the execution of this Lease, in good order, good repair, safe, clean, and tenantable condition.
14. At all reasonable times during the term of this Lease and any renewal of this Lease, the Landlord and its agents may enter the Property to make inspections or repairs, or to show the Property to prospective tenants or purchasers in compliance with the Act.

Tenant Improvements

15. The Tenant will obtain written permission from the Landlord before doing any of the following:

- a. applying adhesive materials, or inserting nails or hooks in walls or ceilings other than two small picture hooks per wall;
- b. painting, wallpapering, redecorating or in any way significantly altering the appearance of the Property;
- c. removing or adding walls, or performing any structural alterations;
- d. installing a waterbed(s);
- e. changing the amount of heat or power normally used on the Property as well as installing additional electrical wiring or heating units;
- f. placing or exposing or allowing to be placed or exposed anywhere inside or outside the Property any placard, notice or sign for advertising or any other purpose; or
- g. affixing to or erecting upon or near the Property any radio or TV antenna or tower.

Utilities and Other Charges

16. The Tenant is responsible for the payment of all utilities in relation to the Property.

Insurance

17. The Tenant is hereby advised and understands that the personal property of the Tenant is not insured by the Landlord for either damage or loss, and the Landlord assumes no liability for any such loss.
18. The Tenant is not responsible for insuring the Landlord's contents and furnishings in or about the Property for either damage or loss, and the Tenant assumes no liability for any such loss.

Attorney Fees

19. In the event that any action is filed in relation to this Lease, the unsuccessful Party in the action will pay to the successful Party, in addition to all the sums that either Party may be called on to pay, a reasonable sum for the successful Party's attorney fees.

Governing Law

20. This Lease will be construed in accordance with and exclusively governed by the laws of the State of Alaska.

Severability

21. If there is a conflict between any provision of this Lease and the Act, the Act will prevail and such provisions of the Lease will be amended or deleted as necessary in order to comply with the Act. Further, any provisions that are required by the Act are incorporated into this Lease.
22. The invalidity or unenforceability of any provisions of this Lease will not affect the validity or enforceability of any other provision of this Lease. Such other provisions remain in full force and effect.

Amendment of Lease

23. This Lease may only be amended or modified by a written document executed by the Parties.

Assignment and Subletting

24. Without the prior, express, and written consent of the Landlord, the Tenant will not assign this Lease, or sublet or grant any concession or license to use the Property or any part of the Property. A consent by the Landlord to one assignment, subletting, concession, or license will not be deemed to be a consent to any subsequent assignment, subletting, concession, or license. Any assignment, subletting, concession, or license without the prior written consent of the Landlord, or an assignment or subletting by operation of law, will be void and will, at the Landlord's option, terminate this Lease.

Additional Clause

25. Disclaimer: The landlord may not take possession of any marijuana or marijuana product. AMCO will be contacted in the event that this is necessary.

Damage to Property

26. If the Property should be damaged other than by the Tenant's negligence or willful act or that of the Tenant's employee, family, agent, or visitor and the Landlord decides not to rebuild or repair the Property, the Landlord may end this Lease by giving appropriate notice.

Care and Use of Property

27. The Tenant will promptly notify the Landlord of any damage, or of any situation that may significantly interfere with the normal use of the Property or to any furnishings supplied by the Landlord.

28. The Tenant will not engage in any illegal trade or activity on or about the Property.
29. The Parties will comply with standards of health, sanitation, fire, housing and safety as required by law.
30. The Parties will use reasonable efforts to maintain the Property in such a condition as to prevent the accumulation of moisture and the growth of mold. The Tenant will promptly notify the Landlord in writing of any moisture accumulation that occurs or of any visible evidence of mold discovered by the Tenant. The Landlord will promptly respond to any such written notices from the Tenant.
31. If the Tenant is absent from the Property and the Property is unoccupied for a period of 4 consecutive days or longer, the Tenant will arrange for regular inspection by a competent person. The Landlord will be notified in advance as to the name, address and phone number of the person doing the inspections.
32. At the expiration of the term of this Lease, the Tenant will quit and surrender the Property in as good a state and condition as they were at the commencement of this Lease, reasonable use and wear and tear excepted.

Rules and Regulations

33. The Tenant will obey all rules and regulations of the Landlord regarding the Property.

Address for Notice

34. For any matter relating to this tenancy, the Tenant may be contacted at the Property or through the phone number below:
 - a. Name: L&H Enterprises LLC.
 - b. Phone: (907) 398-0000.
35. For any matter relating to this tenancy, whether during or after this tenancy has been terminated, the Landlord's address for notice is:
 - a. Name: All Ways Alaska.
 - b. Address: 29945 Aspen Ave. Sterling AK 99672.

The contact information for the Landlord is:

- c. Phone: (907) 953-1787.

General Provisions

36. All monetary amounts stated or referred to in this Lease are based in the United States dollar.
37. Any waiver by the Landlord of any failure by the Tenant to perform or observe the provisions of this Lease will not operate as a waiver of the Landlord's rights under this Lease in respect of any subsequent defaults, breaches or non-performance and will not defeat or affect in any way the Landlord's rights in respect of any subsequent default or breach.
38. This Lease will extend to and be binding upon and inure to the benefit of the respective heirs, executors, administrators, successors and assigns, as the case may be, of each Party. All covenants are to be construed as conditions of this Lease.
39. All sums payable by the Tenant to the Landlord pursuant to any provision of this Lease will be deemed to be additional rent and will be recovered by the Landlord as rental arrears.
40. Where there is more than one Tenant executing this Lease, all Tenants are jointly and severally liable for each other's acts, omissions and liabilities pursuant to this Lease.
41. Locks may not be added or changed without the prior written agreement of both Parties, or unless the changes are made in compliance with the Act.
42. The Tenant will be charged an additional amount of \$25.00 for each N.S.F. check or checks returned by the Tenant's financial institution.
43. Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Lease. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.
44. This Lease may be executed in counterparts. Facsimile signatures are binding and are considered to be original signatures.
45. This Lease constitutes the entire agreement between the Parties.
46. During the last 30 days of this Lease, the Landlord or the Landlord's agents will have the privilege of displaying the usual 'For Sale' or 'For Rent' or 'Vacancy' signs on the Property.
47. Time is of the essence in this Lease.

IN WITNESS WHEREOF L&H Enterprises LLC and All Ways Alaska have duly affixed their signatures
on this 28th day of December, 2021.

All Ways Alaska

Per:  (Seal)


L&H Enterprises LLC

The Tenant acknowledges receiving a duplicate copy of this Lease signed by the Tenant and the Landlord
on the 28th day of December, 20 21.


L&H Enterprises LLC

From: Leitha
To: [Marijuana Licensing \(CED sponsored\)](#)
Subject: Objection to License!
Date: Tuesday, April 27, 2021 11:04:58 AM

I just recently became aware that an application for a Marijuana License has been applied for by Stephen T Lovelace & Shantel Lacie Hacker. They applied for a new Standard Marijuana Cultivation Facility license, license #29493 doing business as L & H Enterprises LLC, located at 29945 Aspen Ave., Sterling AK 99672.

I, along with many neighbors who live nearby, strongly object the approval of this license. This is a residential family neighborhood. This is not the place for a Marijuana grow Facility. The odor emitted from a Marijuana Cultivation Facility will have a negative impact on our family neighborhood. Our children & grandchildren should not have to grow up smelling the extremely unpleasant offensive odors that these places put out. Exposure to these unpleasant odors will affect our quality of life on every level.

After contacting a realtor, we were also informed our property values will decrease. We have a Petition & are gathering signatures.

Please consider our concerns to our objections. Thank you.

Sincerely,

Leitha R. Mallatt

From: Candice Kirsch
To: [Marijuana Licensing \(CED sponsored\)](#)
Subject: Marijuana Cultivation Objection
Date: Tuesday, April 27, 2021 1:52:22 PM

I just recently became aware that an application for a Marijuana License has been applied for by Stephen T Lovelace & Shantel Lacie Hacker. They applied for a new Standard Marijuana Cultivation Facility license, license #29493 doing business as L & H Enterprises LLC, located at 29945 Aspen Ave., Sterling AK 99672.

I, along with many neighbors who live nearby, strongly object the approval of this license. This is a residential family neighborhood. This is not the place for a Marijuana grow Facility.

The odor emitted from a Marijuana Cultivation Facility will have a negative impact on our family neighborhood. Our children & grandchildren should not have to grow up smelling the extremely unpleasant offensive odors that these places put out. Exposure to these unpleasant odors will affect our quality of life on every level.

After contacting a realtor, we were also informed our property values will decrease. We have a Petition & are gathering signatures.

Please consider our concerns to our objections. Thank you.

Sincerely,

Tim and Candice Kirsch

Sent from my iPhone

From: Brian Groseclose
To: [Marijuana Licensing \(CED sponsored\)](#)
Subject: Deny #29493
Date: Tuesday, May 18, 2021 10:12:26 AM

Dear AMCO,

I am writing to ask you to deny application #29493 as L&H Enterprises LLC, located at 29945 Aspen Ave, Sterling, AK 99672.

I am a local resident in Sterling and strongly oppose marijuana sales, use, and any growing operations in our local area. The amount of drivers under the influence of alcohol and marijuana is increasing dramatically. I see this nearly every day and am angry when I smell marijuana while driving, riding on bike paths, in my neighborhood, and just about every public place I go. I have discussed these encounters with several personal friends that work in law enforcement. They are frustrated that not much is or can be done due to the sensitive nature of all the rules, protection laws, and such.

I am also very opposed to having any marijuana operation in a family neighborhood, where many children play year round. People from all over the country recreate in their summer homes, many older retired folks live in the area, and with all of the families present, it is not a place conducive to this kind of operation. We don't need increased traffic, more drivers under the influence, or any of this undesirable activity in our neighborhood.

The government has allowed this negative activity to be legalized for the sake of tax revenue but the negative effects are costing our society much more than will ever be gained in taxes. I strongly oppose this application and ask that you would please consider denying it.

Thank you,

Brian Groseclose
37340 Mountain Ridge Rd.
Sterling, AK 99672

From: Wendy Holland
To: [Marijuana Licensing \(CED sponsored\)](#)
Subject: No to marijuana cultivation on Aspen Ave. in Sterling
Date: Wednesday, April 28, 2021 6:06:51 PM

marijuana.licensing@alaska.gov

I just recently became aware that an application for a Marijuana License has been applied for by Stephen T Lovelace & Shantel Lacie Hacker. They applied for a new Standard Marijuana Cultivation Facility license, license #29493 doing business as L & H Enterprises LLC, located at 29945 Aspen Ave., Sterling AK 99672.

I, along with many neighbors who live nearby, strongly object the approval of this license. This is a residential family neighborhood. This is not the place for a Marijuana grow Facility.

The odor emitted from a Marijuana Cultivation Facility will have a negative impact on our family neighborhood. Our children & grandchildren should not have to grow up smelling the extremely unpleasant offensive odors that these places put out. Exposure to these unpleasant odors will affect our quality of life on every level.

After contacting a realtor, we were also informed our property values will decrease. We have a Petition & are gathering signatures.

Please consider these concerns to our objections. Thank you.

Sincerely,

Wendy Holland
36622 Scotsman street
Sterling, Alaska, 99672

Sent from my iPhone

AMCO

APR 28 2021

April 26, 2021

P.O. Box 546

36660 Feuding Ln.

Sterling, AK 99672

To the Alcohol and
Marijuana Control Office,

We are writing to object to the marijuana license application of Stephen T. Lovelace and Shantell Lacie Hacker (3 AAC 306.400(a)(1) Standard Marijuana Cultivation Facility, license 29493 as L & H Enterprises LLC, located at 29945 Aspen Ave., Sterling, AK 99672, United States.

The reasons we object to the facility are the potential problems that such a facility could pose in our neighborhood as follows:

- Massive amounts of water and electricity are required.
- Power surges or outages can damage neighbors' electrical devices.

- Wells using a communal aquifer may be affected.

- Public safety in the neighborhood (may attract criminal activity).

- There can be a buildup of poisonous gases from the chemical nutrients used in the production of marijuana crop. These poisonous gases are also vented outside and released into the neighborhood.

- Exhaust fans can accelerate a fire, increasing a fire hazard which can extend to surrounding homes in the neighborhood.

- Impact on value of property in the neighborhood.

- The smell of stench released into the neighborhood especially during flowering and harvesting.

- Increased noise.

- Increased traffic.

- Substantial amount of nasty runoff.

- Proximity to a school bus stop.

Thank you very kindly
for your consideration of this matter,
Les & Lynne Anderson

PUBLISHER'S AFFIDAVIT

UNITED STATES OF AMERICA,
STATE OF ALASKA

} SS:

Jeff Hayden being first duly sworn, on oath deposes and says:

That I am and was at all times here in this affidavit mentions, Supervisor of Legals of the Sound Publishing / Peninsula Clarion, a newspaper of general circulation and published at Kenai, Alaska, that the advertisement, a printed copy of which is hereto annexed was published in said paper on the dates listed below:

Marijuana Legal

12/08/21

12/15/21

12/22/21

**Marijuana Cultivation Facility
License Application**

L & H Enterprises LLC is applying under 3 AAC 306.400(a)(1) for a new Standard Marijuana Cultivation Facility license, license #29493, doing business as L & H Enterprises LLC, located at 29945 Aspen Ave, Sterling, AK, 99672, UNITED STATES.

Interested persons may object to the application by submitting a written statement of reasons for the objection to their local government, the applicant, and the Alcohol & Marijuana Control Office (AMCO) not later than 30 days after the director has determined the application to be complete and has given written notice to the local government. Once an application is determined to be complete, the objection deadline and a copy of the application will be posted on AMCO's website at <https://www.commerce.alaska.gov/web/amco>. Objections should be sent to AMCO at marijuana.licensing@alaska.gov or to 550 W 7th Ave, Suite 1600, Anchorage, AK 99501.

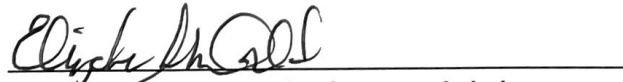
Pub: December 8, 15 & 22, 2021

944690

X 

SUBSCRIBED AND SWORN before me on this

29th day of December, 2021.



NOTARY PUBLIC in favor for the State of Alaska.

My commission expires 3/6/2024.

Elizabeth A. McDonald
Notary Public, State of Alaska
Commission #200306009
My Commission Expires March 6, 2024



Office of the Borough Clerk

144 North Binkley Street, Soldotna, Alaska 99669 • (907) 714-2160 • (907) 714-2388 Fax

Johani Blankenship, MMC
Borough Clerk

MARIJUANA LICENSE LOCAL REVIEW STANDARDS ACKNOWLEDGEMENT FORM

Please review the statements below and acknowledge your understanding of the conditions and intent to comply by your signature below.

There shall be no parking in borough rights-of-way generated by the marijuana establishment.

If I have a retail marijuana license, I will not conduct any business on, or allow any consumer to access, the premises, between the hours of 2:00 a.m. and 8:00 a.m. each day.

I must stay current in obligations owed to the Kenai Peninsula Borough or my license may be subject to a protest by the KPB Assembly.

It is my responsibility to abide by all federal, state, and local laws applicable to my marijuana establishment.

I understand Kenai Peninsula Borough staff will enter my property for purposes of evaluating ongoing compliance with KPB 7.30 and any conditions placed on the license by the State of Alaska Marijuana Control Board.

I have received, read and understand the additional review standards and conditions set out in KPB 7.30.

L & H Enterprises LLC

29945 Aspen Avenue, Sterling, AK 99672; T 5N R 8W SEC 23 SEWARD MERIDIAN KN 0720031 GREEN ACRES SUB TRACT 2

Application for Standard Marijuana Cultivation Facility (License Number: 29493)


Signature


Date

Please return completed form along with site development plan to the KPB Clerk's



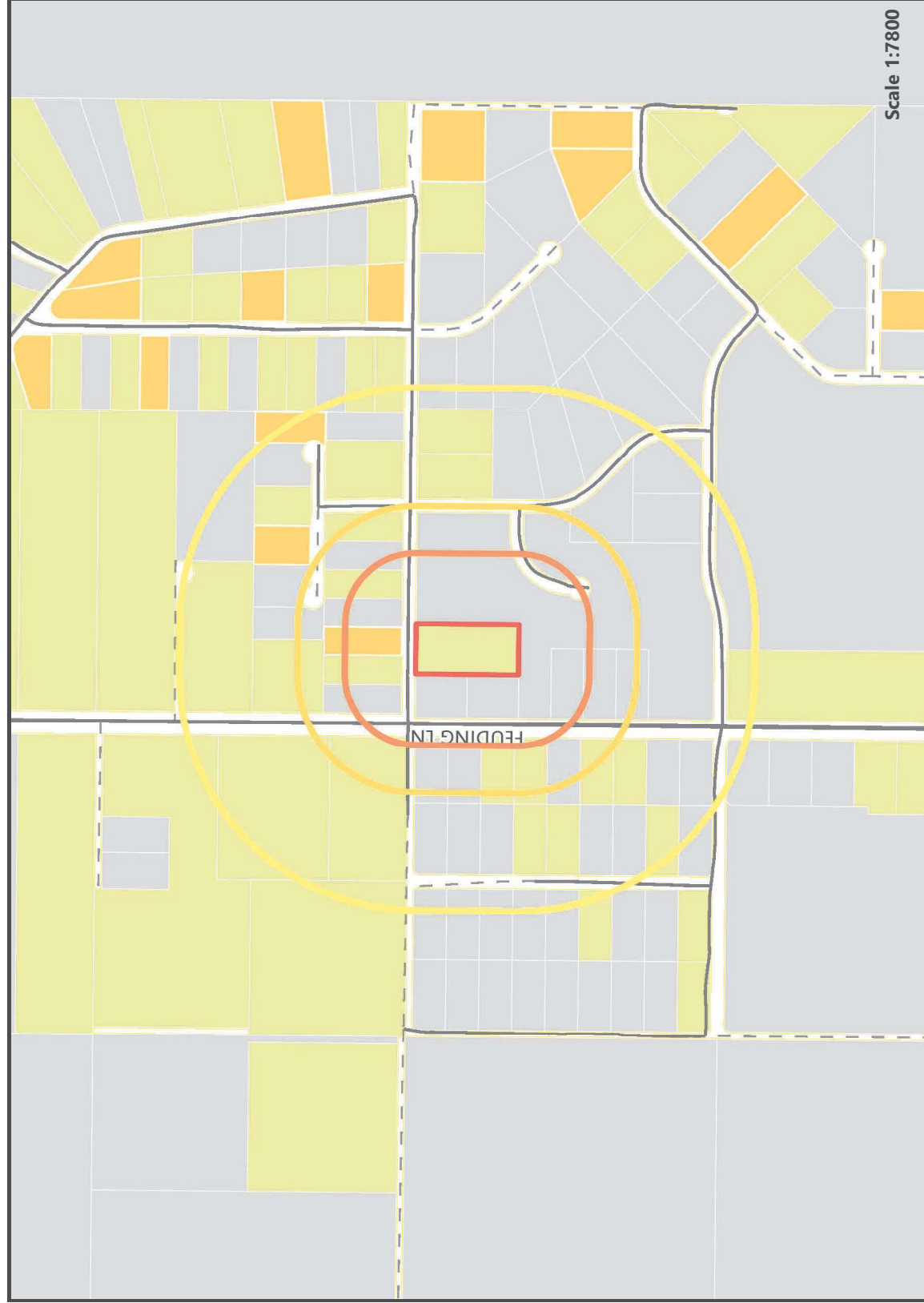


Kenai Peninsula Borough Planning Department
Recommendation on State Application for Standard Marijuana Cultivation Facility

Applicant: L & H Enterprises LLC

KPB Parcel ID: 06550004

Adjacent Land Use Map



AMCO # 29493



1000ft Radius



500ft Radius



300ft Notification Area



Parcel Boundary

Land Usage in 1000ft radius



Accessory Building



3 parcels



Residential



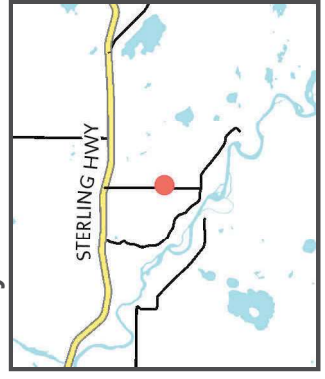
26 parcels



Vacant

44 parcels

Vicinity



Radii shown depict the distance from the parcel boundaries. KPB 7.30 states that the distance must be measured by the shortest pedestrian route. If there were relevant facilities within the 500-foot or 1,000-foot radius, the shortest pedestrian path would be measured and depicted here.



Kenai Peninsula Borough Planning Department
Recommendation on State Application for Standard Marijuana Cultivation Facility

Applicant: L & H Enterprises LLC

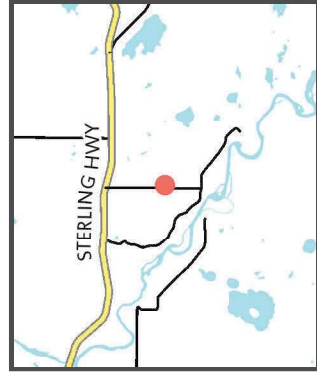
KPB Parcel ID: 06550004

Aerial Imagery Map



-  Parcel Boundary
-  All Other Parcels


Vicinity



Kenai Peninsula Borough
Office of the Borough Mayor

MEMORANDUM

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

THRU: Charlie Pierce, Kenai Peninsula Borough Mayor 

DATE: March 1, 2022

RE: North Road Extension Advisory Task Force Application

Pursuant to Resolution 2021-077, the advisory task force shall consist of seven (7) members that are appointed by the Mayor and confirmed by the Assembly. I hereby submit my recommendation for confirmation by the Assembly, of the following appointment to the North Road Extension Advisory Task Force:

Applicant

Jonathan Becker

Residence Address

49810 Kotsina Avenue, Nikiski, AK

Attachments: Application for Appointment

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

TO: Charlie Pierce, Borough Mayor
THRU: Johni Blankenship, Borough Clerk (JB)
FROM: Michele Turner, Deputy Borough Clerk (MT)
DATE: February 10, 2022
RE: North Road Extension Advisory Task Force Application

Resolution 2021-077 established the North Road Extension Advisory Task Force. The advisory task force consists of seven (7) members that are appointed by the Mayor and confirmed by the Assembly, and one ex-officio assembly member, who is appointed by the Assembly President.

Pursuant to Resolution 2022-077 Section 1.B. Membership – Appointed members must reside in the area accessible via the North Road Extension or along the area which would be accessible if the north road extension were to reasonably be extended.

The application period for the advisory task force closed on November 26, 2021. Seat G has remained opened until filled. Attached is an application for your consideration.

Applicant

Residence Address

Jonathan Becker

49810 Kotsina Avenue, Nikiski

cc: Roads Department

Turner, Michele

From: Kenai Peninsula Borough <webmaster@kpb.us>
Sent: Thursday, February 10, 2022 3:47 AM
To: Turner, Michele; Blankenship, Johni
Cc: Uhlin, Dil; Agosti, Elaine
Subject: North Road Extension Advisory Task Force Application Submitted

Kenai Peninsula Borough

North Road Extension Advisory Task Force Application

Name Jonathan Becker	Task Force Choice Seat G (Term Expires October 12, 2022)
Email Address akvortex@gmail.com	Phone 9073940773
Residence Address 49810 Kotsina Ave Nikiski, Alaska 99635	Mailing Address PO Box 2458 Kenai, Alaska 99611
Comments I presently reside near the pool in Nikiski, however I have ownership interest in Lot 171 Moose Point Subdv. We have been attempting to develop this remote property as a part time residence however due to the difficulty in accessing this property safely, it has been a long time in development. I have staked out an area for a cabin and have started clearing trees. We have a small work cache set up out there and try to do a little bit when we can safely access the site; however that has been increasingly difficult due to several safety issues. So, I am not sure that I meet the specific residency requirements of this task force. I am not familiar with the empowering code so I wanted to be clear about my qualifications for this task force. I have owned and worked on the property periodically over the past 30 years. My Mother, Vickie Becker, is the present owner of that property, although its really a "family" lot as we intend to develop it into a family retirement site and eventually have it owned by the Family Trust. That being said, while I do not currently reside there, it is likely I would develop it further into a residential setting provided a more safe and consistent access were available to my Family; some of whom are aging, frail and/or physically disabled.	

MEMORANDUM

TO: Kenai Peninsula Borough Assembly Members
FROM: Brent Johnson, Assembly President
DATE: March 1, 2022
RE: Confirming the Appointment of Assembly Member Lane Chesley to the Emergency Management Code Update Work Group

Ordinance 2020-19-25 appropriated \$2,037,529.59 to supplement mitigation and prevention projects resulting from COVID-19. One of the approved projects is updating sections of borough code specific to response and recovery in areawide and nonareawide capacities. The goal of said updates are to complement existing powers and identify potential changes or other recommendations based upon lessons-learned in correlation with COVID-19 response actions.

The office of Holmes, Weddle & Barcott (HWB) was hired to make the final report, which will serve to create the code updates. To date, HWB and borough staff have completed the necessary research and finalized issues to address within the code. It is recommended that an internal working group be created to provide input to the final report. The final report will be presented to the assembly.

The group will consist of one assembly member and borough staff. Staff members include:

Brenda Ahlberg, Emergency Manager
Walker Steinhage, Deputy Attorney
Bob Ciccicarella, Kachemak Emergency Services

I am submitting Assembly Member Lane Chesley's name for Assembly approval.

Thank you.

Kenai Peninsula Borough
Office of the Borough Mayor

MAYOR'S REPORT TO THE ASSEMBLY

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

FROM: Charlie Pierce, Kenai Peninsula Borough Mayor 

DATE: March 1, 2022

Assembly Request / Response

None

Agreements and Contracts

None

Other

- Revenue-Expenditure Report – January 2022
- Budget Revisions – January 2022

Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Charlie Pierce, Borough Mayor *CP*

THRU: Brandi Harbaugh, Finance Director *BH*

FROM: Sarah Hostetter, Payroll Accountant *SH*

DATE: February 8, 2022

RE: Revenue-Expenditure Report – January 2022

Attached is the Revenue-Expenditure Report of the General Fund for the month of January 2022. Please note that 58.33% of the year has elapsed, 73.89% of budgeted revenues have been collected, and 47.56% of budgeted expenditures have been made.

KENAI PENINSULA BOROUGH
Revenue Report
For the Period
January 1 through January 31, 2022

ACCOUNT NUMBER	DESCRIPTION	ESTIMATED REVENUE	YEAR TO DATE RECEIPTS	MONTH TO DATE RECEIPTS	VARIANCE	% COLLECTED
31100	Real Property Tax	\$ 31,078,028	\$ 30,688,194	\$ 325,815	\$ (389,834)	98.75%
31200	Personal Property Tax	1,928,769	2,175,575	46,253	246,806	112.80%
31300	Oil Tax	6,680,655	6,680,656	-	1	100.00%
31400	Motor Vehicle Tax	642,580	159,255	42,623	(483,325)	24.78%
31510	Property Tax Penalty & Interest	697,431	442,058	88,580	(255,373)	63.38%
31610	Sales Tax	36,100,000	20,702,704	3,377,366	(15,397,296)	57.35%
33110	In Lieu Property Tax	3,100,000	-	-	(3,100,000)	0.00%
33117	Other Federal Revenue	160,000	126,443	40,035	(33,557)	79.03%
33220	Forestry Receipts	500,000	-	-	(500,000)	0.00%
34110	School Debt Reimbursement	1,277,544	799,192	323,368	(478,352)	62.56%
34221	Electricity & Phone Revenue	155,000	-	-	(155,000)	0.00%
34222	Fish Tax Revenue Sharing	500,000	25,526	-	(474,474)	5.11%
34210	Revenue Sharing	300,000	-	-	(300,000)	0.00%
37350	Interest on Investments	289,673	63,044	33,087	(226,629)	21.76%
39000	Other Local Revenue	279,791	244,594	37,954	(35,197)	87.42%
290	Solid Waste	802,000	320,331	9,380	(481,669)	39.94%
Total Revenues		\$ 84,491,471	\$ 62,427,572	\$ 4,324,460	\$ (22,063,899)	73.89%


KENAI PENINSULA BOROUGH
Expenditure Report
For the Period
January 1 through January 31, 2022


DESCRIPTION	REVISED BUDGET	YEAR TO DATE EXPENDED	MONTH TO DATE EXPENDED	AMOUNT ENCUMBERED	AVAILABLE BALANCE	% EXPENDED
Assembly:						
Administration	\$ 495,116	\$ 313,330	\$ 18,216	\$ 12,089	\$ 169,697	63.28%
Clerk	585,302	289,496	37,248	11,163	284,643	49.46%
Elections	242,758	102,648	154	8,581	131,529	42.28%
Records Management	339,057	176,101	22,637	16,582	146,374	51.94%
Mayor Administration	807,292	331,236	50,507	1,847	474,209	41.03%
Purch/Contracting/Cap Proj	650,877	288,125	43,621	16,253	346,498	44.27%
Human Resources:						
Administration	759,927	394,503	47,879	2,608	362,816	51.91%
Print/Mail	194,590	94,769	17,285	19,423	80,398	48.70%
Custodial Maintenance	125,045	64,919	9,377	292	59,834	51.92%
Information Technology	2,136,877	921,953	90,005	14,351	1,200,573	43.14%
Emergency Management	1,026,834	441,564	47,414	67,671	517,599	43.00%
Legal Administration	1,443,741	400,287	64,740	311,784	731,670	27.73%
Finance:						
Administration	520,870	302,358	63,055	2,790	215,721	58.05%
Services	1,160,504	591,077	55,222	801	568,626	50.93%
Property Tax	1,144,165	548,513	51,298	107,140	488,512	47.94%
Sales Tax	1,005,193	587,776	65,564	4,689	412,728	58.47%
Assessing:						
Administration	1,384,355	705,407	82,923	48,994	629,954	50.96%
Appraisal	1,750,966	746,370	112,476	12,249	992,347	42.63%
Resource Planning:						
Administration	1,274,860	550,454	75,730	29,876	694,530	43.18%
GIS	690,573	336,031	26,605	17,192	337,350	48.66%
River Center	721,192	346,100	50,306	30,220	344,872	47.99%
Senior Citizens Grant Program	719,494	416,978	203,157	302,516	-	57.95%
School District Operations	55,710,125	29,446,288	47,500	-	26,263,837	52.86%
Solid Waste Operations	14,253,964	3,942,240	522,432	1,753,243	8,558,482	27.66%
Economic Development	400,000	57,324	28,338	304,598	38,079	14.33%
Non-Departmental	3,233,990	1,727,776	22,148	121,384	1,384,831	53.43%
Total Expenditures	\$ 92,777,668	\$ 44,123,624	\$ 1,855,838	\$ 3,218,334	\$ 45,435,710	47.56%


Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Charlie Pierce, Borough Mayor 

THRU: Brandi Harbaugh, Finance Director 

FROM: Sarah Hostetter, Payroll Accountant 

DATE: February 8, 2022

RE: Budget Revisions – January 2022

Attached is a budget revision listing for January 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.

JANUARY 2022**INCREASE****DECREASE****KACHEMAK EMERGENCY SERVICES**

To purchase EMT1 training books.

212-51810-00000-43210 (Transport & Subsistence)

\$2,400.00

212-51810-00000-42263 (Training Supplies)

\$2,400.00

Kenai Peninsula Borough

Finance Department

MEMORANDUM

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

THRU: Charlie Pierce, Borough Mayor *chi*
Brandi Harbaugh, Finance Director *rb*

FROM: Chad Friedersdorff, Financial Planning Manager

DATE: March 1, 2022

RE: Investment Report quarter ended 12/31/21

Attached is the Quarterly Investment Report of the Kenai Peninsula Borough for the quarter ending December 30, 2021.

Portfolio Statistics	Quarter Ended 9/30/2021	Quarter Ended 12/31/2021
Average Daily Balance	\$255,070,698	\$284,603,311
Earned Interest Yield	0.674%	0.649%
Duration in Years	1.94	2.00
Book Value	\$277,478,349	\$283,618,657
Market Value	\$277,365,922	\$282,195,051
Percent % of Market Value	100.04%	100.50%

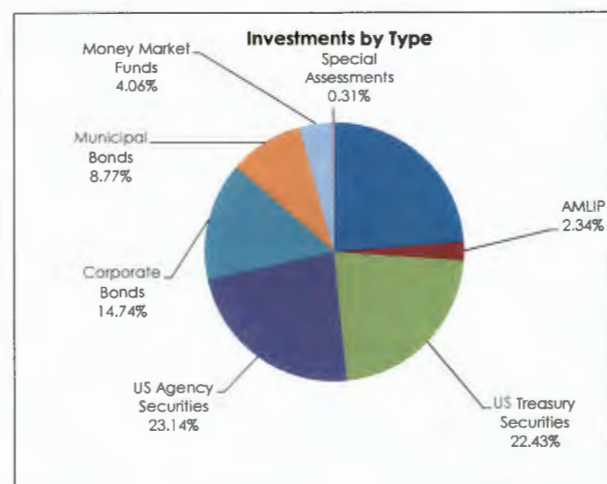
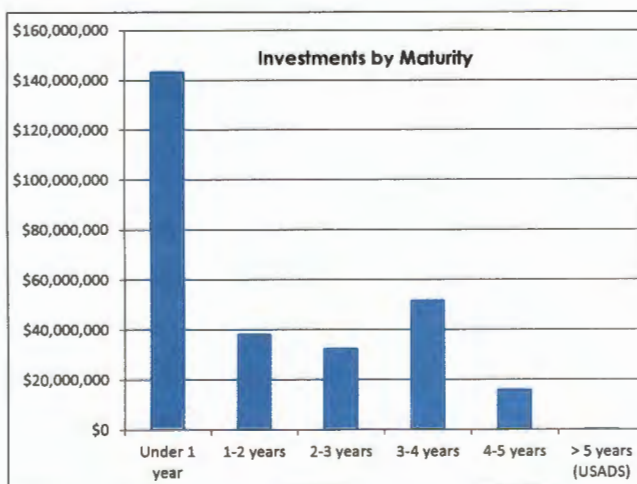
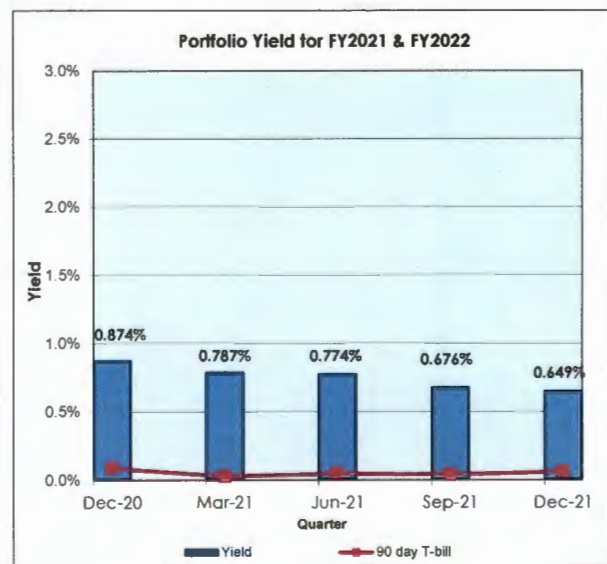
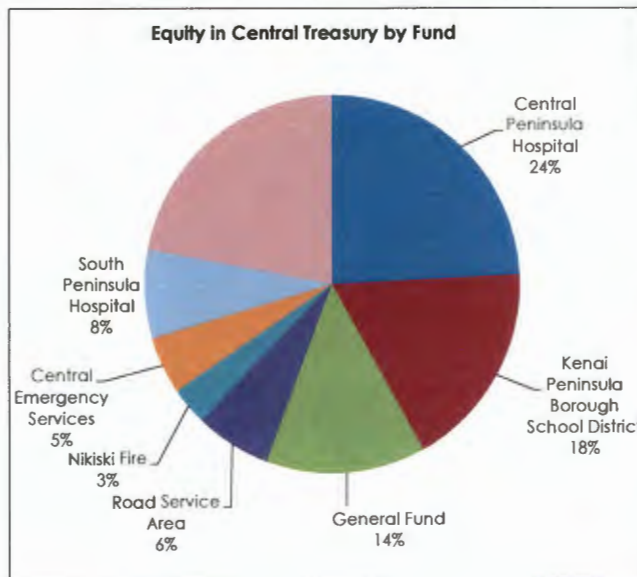
Investment Description	Yield quarter ending 9/30/2021	Yield quarter ending 12/31/2021	Market Value quarter ending 12/31/2021
Cash and Cash Equivalents	0.15%	0.15%	\$67,366,850
AMLIP	0.01%	0.01%	6,641,366
U.S. Treasury Securities	0.42%	0.52%	63,222,453
US Agencies	1.36%	1.17%	65,133,768
Corporate Bonds	1.17%	1.02%	41,475,402
Municipal Bonds	1.40%	1.38%	25,956,186
Money Market Mutual Funds	0.01%	0.01%	11,523,819
Special Assessments	5.46%	5.46%	875,207
Total			\$282,195,051

Major Categories:	Percentage of Portfolio	Book Value quarter ending 12/31/2021
Bond related funds	4.25%	\$12,064,821
CARES Advance funding	0.15%	435,826
Hospital plant/equipment replacement funds (PERF)-unobligated	23.16%	65,680,786
School District	14.62%	41,444,907
Capital Project fund restrictions	16.94%	48,036,182
Special Revenue funds restrictions	22.08%	62,624,275
Internal Service/Agency fund restrictions	4.51%	12,803,293
General Fund	14.29%	40,528,567
Total	100.00%	\$283,618,657

INVESTMENT PORTFOLIO
December 31, 2021

	Par Value	Purchase Price	Fair Value 12/31/2021
Investments by Borough Finance Director			
CORPORATE	11,985,000.00	12,261,959.00	12,083,135.02
MUNICIPAL	2,000,000.00	2,000,000.00	2,000,080.00
AGENCY	27,750,000.00	28,039,495.50	27,822,970.00
US TREASURY	33,500,000.00	33,984,967.73	33,741,820.00
Total Investment by Borough Finance Director:	75,235,000.00	76,286,422.23	75,648,005.02
Investment with External Manager:			
CORPORATE	28,712,000.00	29,529,632.91	29,392,266.98
MUNICIPAL	23,585,000.00	24,169,488.50	23,956,105.75
AGENCY	37,555,383.20	37,597,719.85	37,310,797.71
US TREASURY	29,850,000.00	29,628,150.79	29,480,633.00
Total Security Investment with External Manager:	119,702,383.20	120,924,992.05	120,139,803.44
TOTAL SECURITY INVESTMENTS	194,937,383.20	197,211,414.28	195,787,808.46
CASH & CASH EQUIVALENTS	85,532,035.48	85,532,035.48	85,532,035.48
SPECIAL ASSESSMENTS	875,207.03	875,207.03	875,207.03
TOTAL PORTFOLIO	281,344,625.71	283,618,656.79	282,195,050.97

Security Portfolio - Purchase Price	\$ 201,230,368.37
Security Portfolio - Fair Value 12/31/21	199,806,762.55
Fair Value Adjustment - 12/31/21	(1,423,605.82)
Fair Value Adjustment - 6/30/21	495,230.15
Change in Fair Value FY2022	\$ (1,918,835.97)



KENAI PENINSULA BOROUGH - LAND TRUST INVESTMENT FUND

Account Statement - Period Ending October 31, 2021

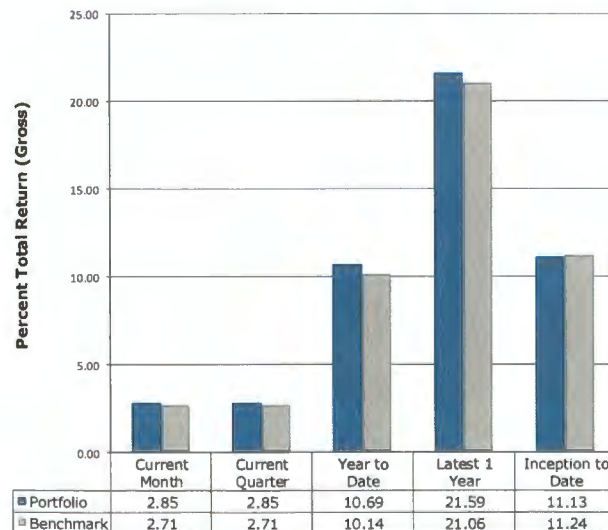


ACCOUNT ACTIVITY

Portfolio Value on 09-30-21	7,763,747
Contributions	1,203,960
Withdrawals	-970
Change in Market Value	205,292
Interest	4
Dividends	15,990
Portfolio Value on 10-31-21	9,188,023

INVESTMENT PERFORMANCE

**Current Account Benchmark:
Equity Blend**

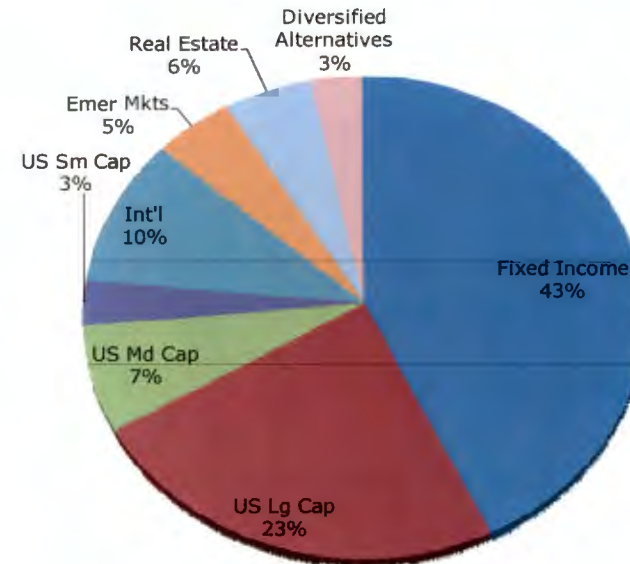


Performance is Annualized for Periods Greater than One Year

MANAGEMENT TEAM

Client Relationship Manager:	Blake Phillips, CFA® Blake@apcm.net
Your Portfolio Manager:	Brandy Niclai, CFA®
Contact Phone Number:	907/272-7575

PORTFOLIO COMPOSITION



KENAI PENINSULA BOROUGH - LAND TRUST INVESTMENT FUND

Account Statement - Period Ending November 30, 2021



ALASKA PERMANENT
CAPITAL MANAGEMENT
Registered Investment Adviser

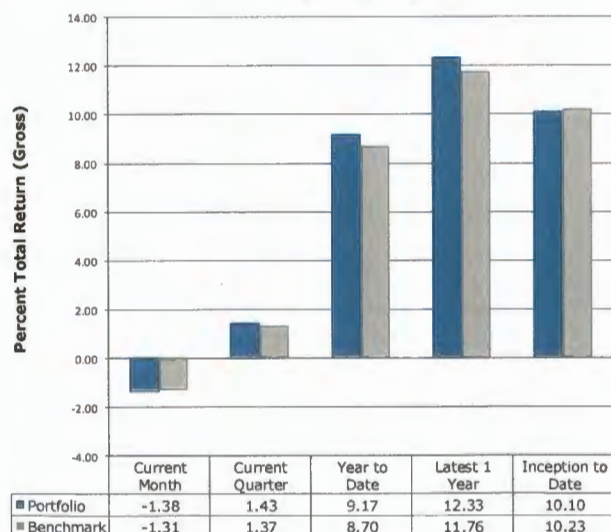
ACCOUNT ACTIVITY

Portfolio Value on 10-31-21	9,188,023
Contributions	0
Withdrawals	-1,148
Change in Market Value	-130,003
Interest	6
Dividends	3,461

Portfolio Value on 11-30-21 9,060,338

INVESTMENT PERFORMANCE

Current Account Benchmark:
Equity Blend



Performance is Annualized for Periods Greater than One Year

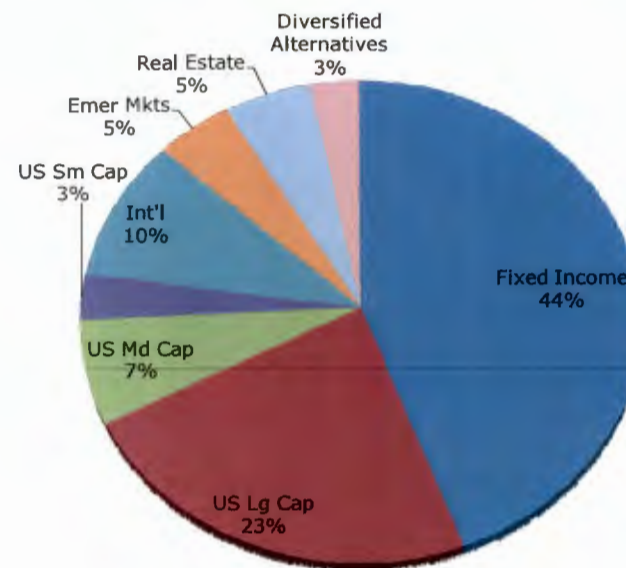
MANAGEMENT TEAM

Client Relationship Manager: Blake Phillips, CFA®
Blake@apcm.net

Your Portfolio Manager: Brandy Nicolai, CFA®

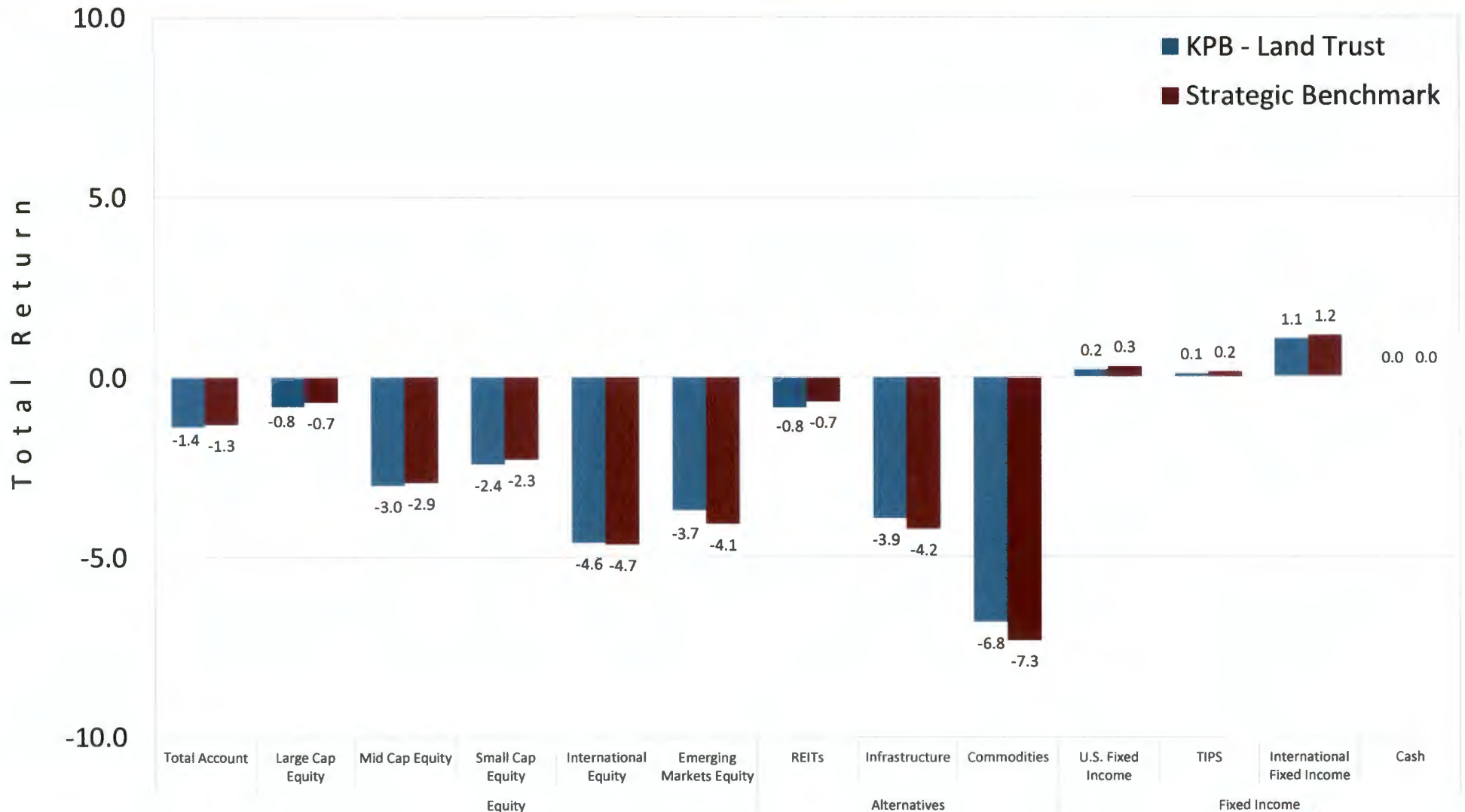
Contact Phone Number: 907/272-7575

PORTFOLIO COMPOSITION



Asset Class Performance November 2021

Kenai Peninsula Borough Land Trust Investment Fund



Performance is gross of fees.

KENAI PENINSULA BOROUGH - LAND TRUST INVESTMENT FUND

Account Statement - Period Ending December 31, 2021



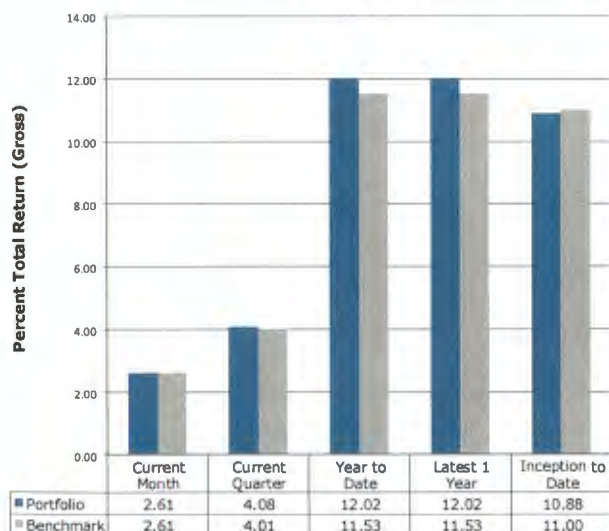
ALASKA PERMANENT
CAPITAL MANAGEMENT
Registered Investment Adviser

ACCOUNT ACTIVITY

Portfolio Value on 11-30-21	9,060,338
Contributions	0
Withdrawals	0
Change in Market Value	115,745
Interest	5
Dividends	120,944
Portfolio Value on 12-31-21	9,297,033

INVESTMENT PERFORMANCE

Current Account Benchmark:
Equity Blend

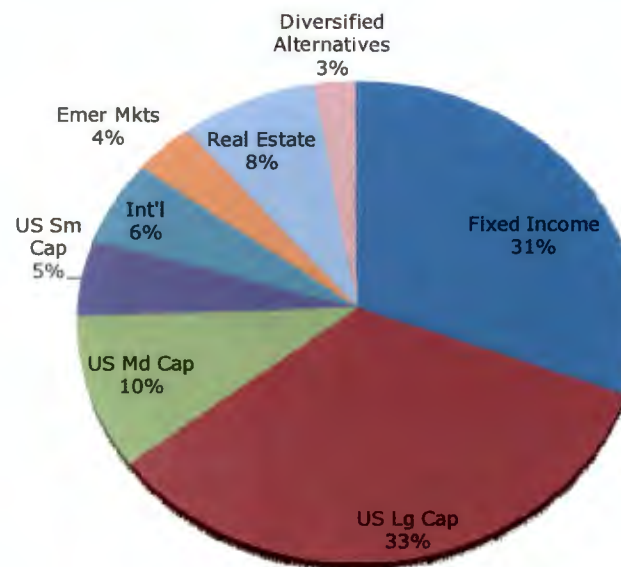


Performance is Annualized for Periods Greater than One Year

MANAGEMENT TEAM

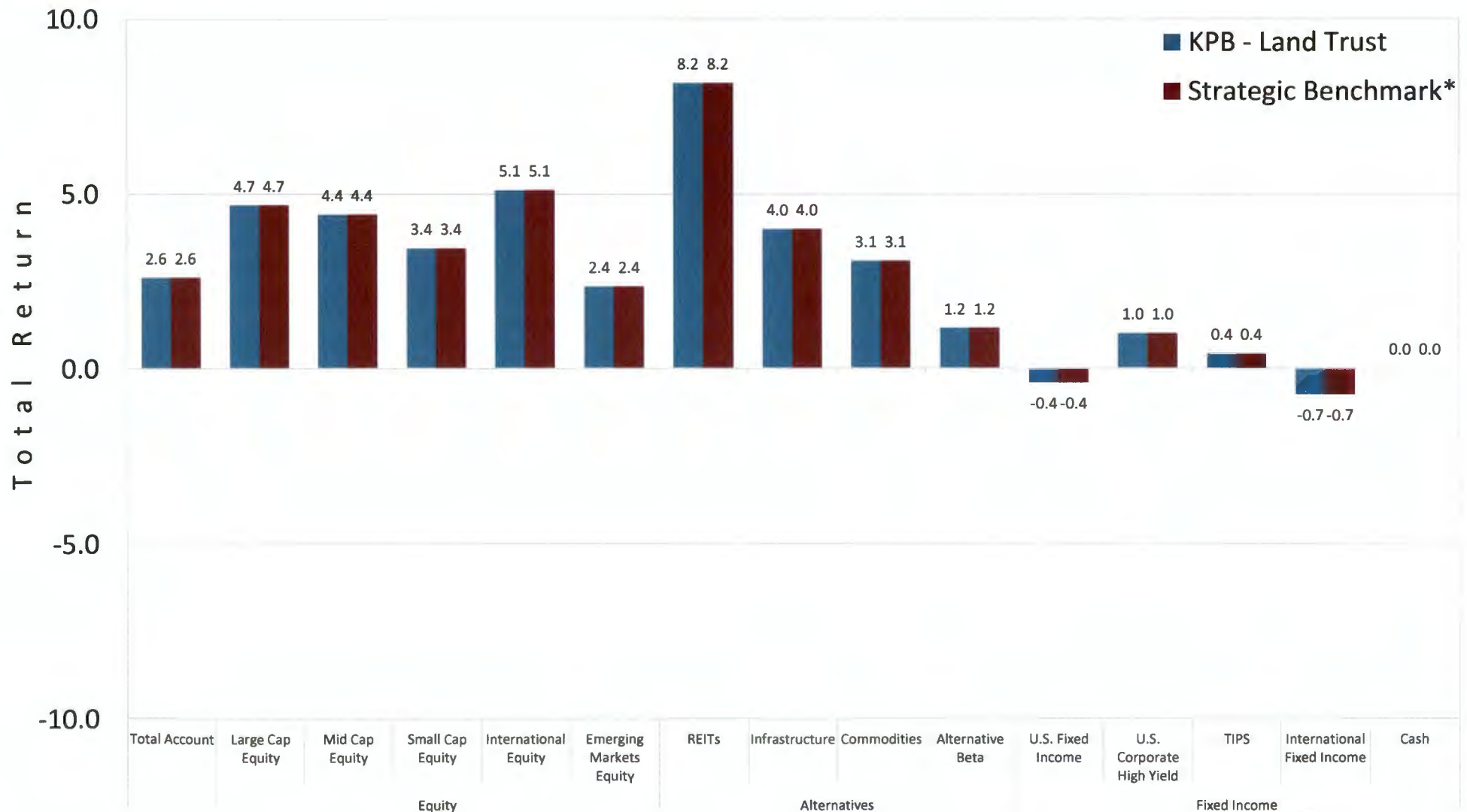
Client Relationship Manager:	Blake Phillips, CFA® Blake@apcm.net
Your Portfolio Manager:	Brandy Niclai, CFA®
Contact Phone Number:	907/272-7575

PORTFOLIO COMPOSITION



Asset Class Performance December 2021

Kenai Peninsula Borough Land Trust Investment Fund



Performance is gross of fees. *Benchmark performance reflects transition to new Investment Policy.

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:	
Vote:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2021-41**

**AN ORDINANCE AMENDING KPB 21.29, KPB 21.25, AND KPB 21.50.055
REGARDING MATERIAL SITE PERMITS, APPLICATIONS, CONDITIONS, AND
PROCEDURES**

- WHEREAS,** Goal 2, Focus Area: Land Use and Changing Climate, Objective A of the 2019 Kenai Peninsula Borough Comprehensive Plan is to establish policies that better guide land use to minimize land use conflicts, maintain property values, protect natural systems and support individual land use freedoms; and
- WHEREAS,** Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 1 of the 2019 Comprehensive Plan is to adopt limited development standards for specific areas and uses to reduce potential off site impacts of development on adjoining uses and the natural environment; and
- WHEREAS,** Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 2 of the 2019 Comprehensive Plan is to update the Borough’s existing conditional use regulations for gravel extraction and other uses to better address reoccurring land use conflicts; and
- WHEREAS,** Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 2a of the 2019 Comprehensive Plan is to clarify the broad purpose of the conditional use process and clear parameters for allowable conditional uses that include reasonable, project-specific conditions that reduce impacts on surrounding uses, and if/when a conditional use permit can be denied and consider establishing conditions that require larger setbacks, safety and visual screening, control on access routes, control on hours of operation, and address environmental concerns; and
- WHEREAS,** Goal 2, Focus Area: Land Use and Changing Climate, Objective A, Strategy 2d of the 2019 Comprehensive Plan is to complete improvements to the rules guiding gravel extraction, with the goal of providing an appropriate balance between providing access to affordable materials for development and protecting quality of life for borough residents; and

WHEREAS, Goal 1 of the Mining and Minerals Processing section of the 1990 Kenai Peninsula Borough Coastal Management Program is to provide opportunities to explore, extract and process minerals, sand and gravel resources, while protecting environmental quality and other resource users; and

WHEREAS, an assembly subcommittee was formed in 2005 to review the material site code; and

WHEREAS, Ordinance 2006-01 (Substitute) codified as KPB 21.29 was adopted in 2006 after consideration of the subcommittee's report; and

WHEREAS, the planning department has been administering Ordinance 2006-01 (Substitute), codified as KPB 21.29 for 13 years; and

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

WHEREAS, the planning department has recognized that certain provisions of the material site ordinance could be better clarified for the operators, public, and staff; and

WHEREAS, the planning commission and planning department received comments expressing concerns about dust, noise, safety, and aesthetics; and

WHEREAS, approximately 253 registered prior existing use material sites and approximately 99 conditional land use permits for material sites have been granted since 1996;

WHEREAS, the planning department receives numerous complaints regarding unreclaimed parcels registered as nonconforming prior existing material sites which have not been regulated by KPB; and

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

WHEREAS, assembly Resolution 2018-025 extended the deadline for the final report to be submitted to the assembly, administration and planning commission to April 30, 2019; and

WHEREAS, certain additional conditions placed on material site permits would facilitate a reduction in the negative secondary impacts of material sites, e.g. dust, noise, safety, and unsightliness of material sites; and

WHEREAS, at its regularly scheduled meeting of November 12, 2019, the planning commission recommended approval by unanimous consent;

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

SECTION 1. That KPB 21.25.030 is hereby amended, as follows:

21.25.030. - Definitions.

Unless the context requires otherwise, the following definitions apply to CLUPs:

Abandon means to cease or discontinue a use without intent to resume, but excluding short-term interruptions to use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility or during normal periods of vacation or seasonal closure. An "intent to resume" can be shown through continuous operation of a portion of the facility, maintenance of utilities, or outside proof of continuance, e.g., bills of lading or delivery records. Abandonment also means the cessation of use, regardless of voluntariness, for a specified period of time.

Animal feeding operation means a lot or facility (other than an aquatic animal production facility) where animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period.

- a. The same animals need not remain on the lot for 45 days or more; rather, some animals are fed or maintained on the lot 45 days out of any 12-month period, and
- b. Animals are "maintained" for purposes of this ordinance when they are confined in an area where waste is generated and/or concentrated or are watered, cleaned, groomed, or medicated in a confined area, even if the confinement is temporary.
- c. Two or more animal feeding operations under common ownership are considered, for the purposes of these regulations, to be a single animal feeding operation if they adjoin each other.
- d. Slaughterhouses are animal feeding operations.

Animal unit means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighting [weighing] over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

Animal waste means animal excrement, animal carcasses, feed wasted, process wastewaters or any other waste associated with the confinement of animals from an animal feeding operation.

Animal waste management system means a combination of structures and nonstructural practices serving an animal feeding operation that provides for the collection, treatment, disposal, distribution, storage and land application of animal waste.

Aquifer means a subsurface formation that contains sufficient water-saturated permeable material to yield economical quantities of water to wells and springs.

Aquifer-confining layer means that layer of relatively impermeable soil below an aquifer, typically clay, which confines water.

Assisted living home means a residential facility that serves three or more adults who are not related to the owner by blood or marriage, or that receives state or federal payment for service of the number of adults served. The services and activities may include, but are not limited to, housing and food services to its residents, assistance with activities of daily living, and personal assistance, and that complies with Alaska Statutes 47.32.0101 – 47.60.900, as amended.

Child care facility means a place where child care is regularly provided for children under the age of 12 for periods of time that are less than 24 hours in duration and that is licensed pursuant to AS 47.35.005 et seq., excluding child care homes and child care group homes, as currently written or hereafter amended.

Commercial means any provision of services, sale of goods, or use operated for production of income whether or not income is derived, including sales, barter, rental, or trade of goods and services.

Concentrated animal feeding operation (CAFO) means an animal feeding operation confining at least: (1) 1,000 swine weighing at least approximately 55 pounds; (2) 1,000 slaughter and feeder cattle; (3) 700 mature dairy cattle; (4) 500 horses; (5) 10,000 sheep or lambs; (6) 55,000 turkeys; (7) 100,000 laying hens or broilers (if the facility has continuous overflow watering); (8) 30,000 laying hens or broilers (if the facility has a liquid manure system); (9) 5,000 ducks; (10) 1,000 animal units; or (11) a combination of the above resulting in at least 1,000 animal units. Each individual parcel upon which a CAFO is located is a separate CAFO unless they adjoin each other.

Conditioning or processing material means a value-added process including batch plants, asphalt plants, screening, washing, and crushing by use of machinery.

Correctional community residential center (CCRC) means a community residential center, other than a correctional institution, for the short-term or temporary detention of prisoners in transition from a correctional institution, performing restitution, or undergoing rehabilitation or recovery from a legal infirmity. CCRCs may not be used for detention of prisoners who pose a threat or danger to the public for violent or sexual misconduct without imprisonment or physical confinement under guard or twenty-four-hour physical supervision. The determination of whether a prisoner poses a threat or danger to the public for violent or sexual misconduct without imprisonment or physical confinement under guard or twenty-four-hour physical supervision shall be made by the commissioner of corrections for state prisoners and the United States Attorney General, or the U.S. Director of Bureau of Prisons for federal prisoners.

Correctional institution means a facility other than a correctional community residential center providing for the imprisonment or physical confinement or detention of prisoners under guard or twenty-four-hour physical supervision, such as prisons, prison farms, jails, reformatories, penitentiaries, houses of detention, detention centers, honor camps, and similar facilities.

Development plan means a plan created to describe a proposed development on a specific building site excluding material sites under KPB 21.29.020.

Disturbed includes active excavation and all areas necessary to use a parcel as a material site including but not limited to berms, stockpiles, and excavated areas excluding all areas reclaimed for alternate post mining land uses.

[EXHAUSTED MEANS THAT ALL MATERIAL OF A COMMERCIAL QUALITY IN A SAND, GRAVEL, OR MATERIAL SITE HAS BEEN REMOVED.]

Federal prisoners means offenders in the custody or control or under the care or supervision of the United States Attorney General or the Bureau of Prisons.

Groundwater means, in the broadest sense, all subsurface water, more commonly that part of the subsurface water in the saturated zone.

Haul route includes the roads used to haul materials from the permit area to a roadway designated as collector, arterial or interstate by the Alaska Department of Transportation & Public Facilities.

Liquid manure or liquid animal waste system means any animal waste management system which uses water as the primary carrier of such waste into a primary retention structure.

Multi-purpose senior center is a facility where persons 60 years of age or older are provided with services and activities suited to their particular needs. The

services and activities may include, but are not limited to, health examinations, legal assistance, recreation programs, general social activities, telephone reassurance programs, nutrition classes, meals at minimum cost, counseling, protective services, programs for shut-ins and education programs, and that complies with Alaska Statutes 47.60.010—47.60.090, as currently written or hereafter amended.

Permit area includes all excavation, processing, buffer and haul route areas of a CLUP or counter permit.

Person shall include any individual, firm, partnership, association, corporation, cooperative, or state or local government.

Prisoner means:

- a. a person held under authority of state law in official detention as defined in AS 11.81.900;
- b. includes a juvenile committed to the custody of the Alaska Department of Corrections Commissioner when the juvenile has been charged, prosecuted, or convicted as an adult.

Private school is a school comprised of kindergarten through 12th grade, or any combination of those grades, that does not receive direct state or federal funding and that complies with either Alaska Statute 14.45.030 or 14.45.100—14.45.130, as currently written or hereafter amended.

Public school is a school comprised of kindergarten through 12th grade, or any combination of those grades, that is operated by the State of Alaska or any political subdivision of the state.

Sand, gravel or material site means an area used for extracting, quarrying, or conditioning gravel or substances from the ground that are not subject to permits through the state location (mining claim) system (e.g., gold, silver, and other metals), nor energy minerals including but not limited to coal, oil, and gas.

Seasonal high groundwater table means the highest level to which the groundwater rises on an annual basis.

Senior housing project means senior housing as defined for purposes of construction or operation in 15 Alaska Administrative Code 151.950(c), as currently written or hereafter amended.

Stable condition means the rehabilitation, where feasible, of the physical environment of the site to a condition that allows for the reestablishment of

renewable resources on the site within a reasonable period of time by natural processes.

Surface water means water on the earth's surface exposed to the atmosphere such as rivers, lakes, and creeks.

Topsoil means material suitable for vegetative growth.

Vicinity means the same as the area of notification.

Waterbody means any lake, pond, stream, riparian wetland, or groundwater into which storm water runoff is directed.

Water source means a well, spring or other similar source that provides water for human consumptive use.

SECTION 2. That KPB 21.29 is hereby amended, as follows:

CHAPTER 21.29. MATERIAL SITE PERMITS

21.29.010. Material extraction exempt from obtaining a permit.

- A. Material extraction which disturbs an area of less than one acre that is not in a mapped flood plain or subject to 21.29.010(B), does not enter the water table, and does not cross property boundaries, does not require a permit. There will be no excavation within 20 feet of a right-of-way or within ten feet of a lot line.
- B. Material extraction taking place on dewatered bars within the confines of the Snow River and the streams within the Seward-Bear Creek Flood Service Area does not require a permit, however, operators subject to this exemption shall provide the planning department with the information required by KPB 21.29.030(A)(1), (2), (6), (7) and a current flood plain development permit prior to beginning operations.
- C. A prior existing use under KPB 21.29.120 does not require a material extraction permit, but a floodplain development permit is required for all activities within any mapped special flood hazard area.
- D. Material extraction incidental to site development does not require a permit when an approved site development plan is on file with the planning department. Site development plans are approved by the planning director and are valid for one year. The site development plan may be renewed on an annual basis subject to the planning director's approval.

21.29.020. Material extraction and activities requiring a permit.

- A. *Counter permit.* A counter permit is required for material extraction which disturbs no more than 2.5 cumulative acres and does not enter the water table. Counter permits are approved by the planning director, and are not subject to the notice requirements or planning commission approval of KPB 21.25.060. A counter permit is valid for a period of 12 months, with a possible 12-month extension.
- B. *Conditional land use permit.* A conditional land use permit (CLUP) is required for material extraction which disturbs more than 2.5 cumulative acres, or material extraction of any size that enters the water table. A CLUP is required for materials processing. A CLUP is valid for a period of five years. The provisions of KPB Chapter 21.25 are applicable to material site CLUPS and the provisions of KPB 21.25 and 21.29 are read in harmony. If there is a conflict between the provisions of KPB 21.25 and 21.29, the provisions of KPB 21.29 are controlling.

21.29.030. Application procedure.

- A. In order to obtain a counter permit or CLUP, an applicant shall first complete and submit to the borough planning department a permit application, along with the fee listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees. The planning director may determine that certain contiguous parcels are eligible for a single permit. The application shall include the following items:
 - 1. Legal description of the parcel, KPB tax parcel ID number, and identification of whether the permit is for the entire parcel, or a specific location within a parcel;
 - 2. Expected life span of the material site;
 - 3. A buffer plan consistent with KPB 21.29.050(A)(2);
 - 4. Reclamation plan consistent with KPB 21.29.060;
 - 5. The depth of excavation;
 - 6. Type of material to be extracted and type of equipment to be used;
 - 7. Any voluntary permit conditions the applicant proposes. Failure to include a proposed voluntary permit condition in the application does not preclude the applicant from proposing or agreeing to voluntary permit conditions at a later time;

8. Surface water protection measures, if any, for adjacent properties designed by a civil engineer, including the use of diversion channels, interception ditches, on-site collection ditches, sediment ponds and traps, and silt fence;
9. A site plan and field verification prepared by a professional surveyor licensed and registered in the State of Alaska, including the following information:
 - a. Location of excavation, and, if the site is to be developed in phases, the life span and expected reclamation date for each phase;
 - b. Proposed buffers consistent with KPB 21.29.050(A)(2), or alternate buffer plan;
 - c. Identification of all encumbrances, including, but not limited to easements;
 - d. Points of ingress and egress. Driveway permits must be acquired from either the state or borough as appropriate prior to the issuance of the material site permit;
 - e. Anticipated haul routes;
 - f. Location and [DEPTH] elevation of test holes, and depth of groundwater, if encountered between May and December. At least one test hole per ten acres of excavated area is required to be dug. The test holes shall be at least four feet below the proposed depth of excavation;
 - g. Location of wells of adjacent property owners within 300 feet of the proposed parcel boundary;
 - h. Location of any water body on the parcel, including the location of any riparian wetland as determined by ["WETLAND MAPPING AND CLASSIFICATION OF THE KENAI LOWLAND, ALASKA" MAPS CREATED BY THE KENAI WATERSHED FORUM] best available data;
 - [I. SURFACE WATER PROTECTION MEASURES FOR ADJACENT PROPERTIES, INCLUDING THE USE OF DIVERSION CHANNELS, INTERCEPTION DITCHES, ON-SITE COLLECTION DITCHES, SEDIMENT PONDS AND TRAPS, AND SILT FENCE; PROVIDE DESIGNS FOR SUBSTANTIAL STRUCTURES; INDICATE WHICH

STRUCTURES WILL REMAIN AS PERMANENT FEATURES AT THE CONCLUSION OF OPERATIONS, IF ANY;]

[J]i. Location of any processing areas on parcel, if applicable;

[K]j. North arrow;

[L]k. The scale to which the site plan is drawn;

[M]l. Preparer's name, date and seal;

[N]m. Field verification shall include staking the boundary of the parcel at sequentially visible intervals. The planning director may grant an exemption in writing to the staking requirements if the parcel boundaries are obvious or staking is unnecessary.

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

21.29.040. Standards for sand, gravel or material sites.

A. These material site regulations are intended to protect against aquifer disturbance, road damage, physical damage to adjacent properties, dust, noise, and visual impacts. Only the conditions set forth in KPB 21.29.050 may be imposed to meet these standards:

1. Protects against the lowering of water sources serving other properties;
2. Protects against physical damage to [OTHER] adjacent properties;
3. [MINIMIZES] Protects against off-site movement of dust;
4. [MINIMIZES] Protects against noise disturbance to other properties;
5. [MINIMIZES] Protects against visual impacts of the material site; [AND]
6. Provides for alternate post-mining land uses[.];
7. Protects Receiving Waters against adverse effects to fish and wildlife habitat;
8. Protects against traffic impacts; and

9. Provides consistency with the objectives of the Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents.

21.29.050. Permit conditions.

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

1. [PARCEL]Permit boundaries. [ALL BOUNDARIES OF THE SUBJECT PARCEL] The buffers and any easements or right-of-way abutting the proposed permit area shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter. Field verification and staking will require the services of a professional land surveyor. Stakes shall be in place [AT TIME OF APPLICATION] prior to issuance of the permit.

- [2. *BUFFER ZONE.* A BUFFER ZONE SHALL BE MAINTAINED AROUND THE EXCAVATION PERIMETER OR PARCEL BOUNDARIES. WHERE AN EASEMENT EXISTS, A BUFFER SHALL NOT OVERLAP THE EASEMENT, UNLESS OTHERWISE CONDITIONED BY THE PLANNING DIRECTOR OR PLANNING COMMISSION.

- A. THE BUFFER ZONE SHALL PROVIDE AND RETAIN A BASIC BUFFER OF:

- I. 50 FEET OF UNDISTURBED NATURAL VEGETATION, OR

- II. A MINIMUM SIX-FOOT EARTHEN BERM WITH AT LEAST A 2:1 SLOPE, OR

- III. A MINIMUM SIX-FOOT FENCE.

- B. A 2:1 SLOPE SHALL BE MAINTAINED BETWEEN THE BUFFER ZONE AND EXCAVATION FLOOR ON ALL INACTIVE SITE WALLS. MATERIAL FROM THE AREA DESIGNATED FOR THE 2:1 SLOPE MAY BE REMOVED IF SUITABLE, STABILIZING MATERIAL IS REPLACED WITHIN 30 DAYS FROM THE TIME OF REMOVAL.

- C. THE PLANNING COMMISSION OR PLANNING DIRECTOR SHALL DESIGNATE ONE OR A COMBINATION OF THE ABOVE AS IT DEEMS APPROPRIATE. THE VEGETATION AND FENCE SHALL BE OF SUFFICIENT HEIGHT AND DENSITY TO PROVIDE VISUAL AND NOISE SCREENING OF THE PROPOSED USE AS DEEMED

APPROPRIATE BY THE PLANNING COMMISSION OR PLANNING DIRECTOR.

- D. BUFFERS SHALL NOT CAUSE SURFACE WATER DIVERSION WHICH NEGATIVELY IMPACTS ADJACENT PROPERTIES OR WATER BODIES. SPECIFIC FINDINGS ARE REQUIRED TO ALTER THE BUFFER REQUIREMENTS OF KPB 21.29.050(A)(2)(A) IN ORDER TO MINIMIZE NEGATIVE IMPACTS FROM SURFACE WATER DIVERSION. FOR PURPOSES OF THIS SECTION, SURFACE WATER DIVERSION IS DEFINED AS EROSION, FLOODING, DEHYDRATION OR DRAINING, OR CHANNELING. NOT ALL SURFACE WATER DIVERSION RESULTS IN A NEGATIVE IMPACT.
- E. AT ITS DISCRETION, THE PLANNING COMMISSION MAY WAIVE BUFFER REQUIREMENTS WHERE THE TOPOGRAPHY OF THE PROPERTY OR THE PLACEMENT OF NATURAL BARRIERS MAKES SCREENING NOT FEASIBLE OR NOT NECESSARY. BUFFER REQUIREMENTS SHALL BE MADE IN CONSIDERATION OF AND IN ACCORDANCE WITH EXISTING USES OF ADJACENT PROPERTY AT THE TIME OF APPROVAL OF THE PERMIT. THERE IS NO REQUIREMENT TO BUFFER THE MATERIAL SITE FROM USES WHICH COMMENCE AFTER THE APPROVAL OF THE PERMIT.]

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

- a. A buffer area of a maximum of 100 feet shall be established between the area of excavation and the parcel boundaries. The buffer area may include one or more of the following: undisturbed natural vegetation, a minimum six-foot fence, a minimum six-foot earthen berm with at least a 2/1 slope or a combination thereof.
- b. A 2:1 slope shall be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
- c. Where an easement exists, a buffer shall not overlap the easement, unless otherwise conditioned by the planning commission or planning director, as applicable.
- d. The vegetation and fence shall be of sufficient height and density to provide visual and noise screening of the proposed

use as deemed appropriate by the planning commission or the planning director.

- e. The buffer area may be reduced where the planning commission or planning director, as applicable, has approved an alternate buffer plan. The alternate buffer plan must consist of natural undisturbed vegetation, a minimum six-foot berm, or a minimum six-foot fence or a combination thereof; unless the permittee proposes another solution approved by the planning commission or planning director, as applicable, to meet this condition.
- f. The buffer requirements may be waived by the planning commission or planning director, as applicable, where the topography of the property or the placement of natural barriers makes screening not feasible or unnecessary.
- g. There is no requirement to buffer a material site from uses that commence after approval of the permit.
- h. When a buffer area has been denuded prior to review of the application by the planning commission or planning director revegetation may be required.

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

4. *Water source separation.*

- a. All permits shall be issued with a condition which prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance.
- b. All counter permits shall be issued with a condition which requires that a four-foot vertical separation [FROM]between extraction operations and the seasonal high water table be maintained.
- c. All CLUPS shall be issued with a condition which requires that a [TWO] four-foot vertical separation [FROM]between

extraction operations and the seasonal high water table be maintained.

- d. There shall be no dewatering either by pumping, ditching or some other form of draining unless an exemption is granted by the planning commission. The exemption for dewatering may be granted if the operator provides a statement under seal and supporting data from a duly licensed and qualified impartial civil engineer, that the dewatering will not lower any of the surrounding property's water systems and the contractor posts a bond for liability for potential accrued damages.
5. *Excavation in the water table.* Excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission based on the following:
- a. Certification by a qualified independent civil engineer or professional hydrogeologist that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources.
 - b. The installation of a minimum of three water monitoring tubes or well casings as recommended by a qualified independent civil engineer or professional hydrogeologist adequate to determine flow direction, flow rate, and water elevation.
 - c. Groundwater elevation, flow direction, and flow rate for the subject parcel, measured in three-month intervals by a qualified independent civil engineer or professional hydrogeologist, for at least one year prior to application. Monitoring tubes or wells must be kept in place, and measurements taken, for the duration of any excavation in the water table.
 - d. Operations shall not breach an aquifer-confining layer.
6. *Waterbodies.*
- a. An undisturbed buffer shall be left and no earth material extraction activities shall take place within [100] 200 linear feet from excavation limits and the ordinary high water level of surface water bodies such as a lake, river, stream, [OR OTHER WATER BODY, INCLUDING] riparian wetlands and mapped floodplains as defined in KPB 21.06. This regulation shall not apply to man-made waterbodies being constructed during the course of the materials extraction activities. In order to prevent

discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.

- b. Counter permits and CLUPS may contain additional conditions addressing surface water diversion.
7. *Fuel storage.* Fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
8. *Roads.* Operations shall be conducted in a manner so as not to damage borough roads as required by KPB 14.40.175 and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
9. *Subdivision.* Any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit. The planning director may issue a written exemption from the amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a material site and all original permit conditions can be met.
10. *Dust control.* Dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
11. *Hours of operation.* [ROCK CRUSHING EQUIPMENT SHALL NOT BE OPERATED BETWEEN 10:00 P.M. AND 6:00 A.M.]
 - a. Processing equipment shall not be operated between 7:00 p.m. and 6:00 a.m.
 - b. The planning commission may grant exceptions to increase the hours of operation and processing based on surrounding land uses, topography, screening the material site from properties in the vicinity and conditions placed on the permit by the planning commission to mitigate the noise, dust and visual impacts caused by the material site.

12. *Reclamation.*

- a. Reclamation shall be consistent with the reclamation plan approved by the planning commission or planning director as appropriate in accord with KPB 21.29.060.
- b. [AS A CONDITION OF ISSUING THE PERMIT, THE APPLICANT SHALL SUBMIT A RECLAMATION PLAN AND POST A BOND TO COVER THE ANTICIPATED RECLAMATION COSTS IN AN AMOUNT TO BE DETERMINED BY THE PLANNING DIRECTOR. THIS BONDING REQUIREMENT SHALL NOT APPLY TO SAND, GRAVEL OR MATERIAL SITES FOR WHICH AN EXEMPTION FROM STATE BOND REQUIREMENTS FOR SMALL OPERATIONS IS APPLICABLE PURSUANT TO AS 27.19.050.] The applicant shall operate the material site consistent with the approved reclamation plan and provide bonding pursuant to 21.29.060(B). This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.

13. *Other permits.* Permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC air and water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives. Any violation of these regulations or permits reported to or observed by borough personnel will be forwarded to the appropriate agency for enforcement.

14. [~~VOLUNTARY~~]Volunteered *permit conditions.* Conditions may be included in the permit upon agreement of the permittee and approval of the planning commission for CLUPs or the planning director for counter permits. Such conditions must be consistent with the standards set forth in KPB 21.29.040(A). Planning commission approval of such conditions shall be contingent upon a finding that the conditions will be in the best interest of the borough and the surrounding property owners. [~~VOLUNTARY~~] Volunteered permit

conditions apply to the subject parcel and operation, regardless of a change in ownership. A change in [VOLUNTARY] volunteered permit conditions may be proposed [AT] by permit [RENEWAL OR AMENDMENT] modification.

15. *Signage.* For permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access, whichever is more visible. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.
16. *Appeal.* No clearing of vegetation shall occur within the 100-foot maximum buffer area from the permit boundary nor shall the permit be issued or operable until the deadline for the appeal, pursuant to KPB 21.20, has expired.
17. *Sound level.*
 - a. No sound resulting from the materials extraction activities shall create a sound level, when measured at or within the property boundary of the adjacent land, that exceeds 75 dB(A).
 - b. For any sound that is of short duration between the hours of 7 a.m. and 7 p.m. the levels may be increased by:
 - i. Five dB(A) for a total of 15 minutes in any one hour; or
 - ii. Ten dB(A) for a total of five minutes in any hour; or
 - iii. Fifteen db(A) for a total of one and one-half minutes in any one-hour period.
 - c. At its discretion, the planning commission or planning director, as applicable, may reduce or waive the sound level requirements on any or all property boundaries. Sound level requirements shall be made in consideration of and in accordance with existing uses of the properties in the vicinity at the time of approval of the permit.
 - d. Mandatory condition KPB 21.29.050(A)(17) shall expire 365 days from adoption of KPB 21.29.050(A)(17) unless extended or modified by the assembly.

18. Reverse signal alarms. Reverse signal alarms, used at the material site on loaders, excavators, and other earthmoving equipment shall be more technically advanced devices; such as, a multi-frequency “white noise” alarms rather than the common, single (high-pitch) tone alarms. At its discretion, the planning commission or planning director, as applicable, may waive this requirement or a portion of this requirement. The waiver of this requirement shall be made in consideration of and in accordance with existing uses of the properties in the vicinity at the time of approval of the permit.
19. Ingress and egress. The planning commission or planning director may determine the points of ingress and egress for the material site. The permittee is not required to construct haul routes outside the parcel boundaries of the material site. Driveway authorization must be acquired, from either the state through an “Approval to Construct” or a borough road service area as appropriate, prior to issuance of a material site permit when accessing a public right-of-way.
20. Dust suppression. Dust suppression shall be required when natural precipitation is not adequate to suppress the dust generated by the material site traffic on haul routes. Based on surrounding land uses the planning commission or planning director, as applicable, may waive or reduce the requirement for dust suppression on haul routes.
21. Surface water protection. Use of surface water protection measures as specified in KPB 21.29.030(A)(8) must be approved by a licensed civil engineer.
22. Groundwater elevation. All material sites must maintain one monitoring tube per ten acres of excavated area four feet below the proposed excavation.
23. Setback. Material site excavation areas shall be 250-feet from the property boundaries of any local option zoning district, existing public school ground, private school ground, college campus, child care facility, multi-purpose senior center, assisted living home, and licensed health care facility. If overlapping, the buffer areas of the excavation shall be included in the 250-foot setback.

21.29.055. Decision.

The planning commission or planning director, as applicable, shall approve permit applications meeting the mandatory conditions or shall disapprove permit applications that do not meet the mandatory conditions. The decision shall include written findings supporting the decision, and when applicable, there shall be written findings supporting any site-specific alterations to the mandatory condition as

specifically allowed by KPB 21.29.050(A)(2)(a), (2)(c), (2)(d), (2)(e), (2)(g), (3), (4)(d), (5), (11)(b), (12), (14), (17)(c), (18), (19), and (20) and as allowed for the KPB 21.29.060 reclamation plan.

21.29.060. Reclamation plan.

- A. All material site permit applications require an overall reclamation plan along with a five-year reclamation plan. A site plan for reclamation shall be required including a scaled drawing with finished contours. A five-year reclamation plan must be submitted with a permit extension request.
- B. The applicant shall revegetate with a non-invasive plant species and reclaim all disturbed land [UPON EXHAUSTING THE MATERIAL ON-SITE, OR WITHIN A PRE-DETERMINED TIME PERIOD FOR LONG-TERM ACTIVITIES, SO AS TO LEAVE THE LAND IN A STABLE CONDITION. RECLAMATION MUST OCCUR FOR ALL EXHAUSTED AREAS OF THE SITE EXCEEDING FIVE ACRES BEFORE A FIVE-YEAR RENEWAL PERMIT IS ISSUED, UNLESS OTHERWISE REQUIRED BY THE PLANNING COMMISSION. IF THE MATERIAL SITE IS ONE ACRE OR LESS IN SIZE AND HAS BEEN GRANTED A CLUP DUE TO EXCAVATION IN THE WATER TABLE, RECLAMATION MUST BE PERFORMED AS SPECIFIED BY THE PLANNING COMMISSION OR PLANNING DIRECTOR IN THE CONDITIONAL USE OR COUNTER PERMIT] within the time period approved with the reclamation plan so as to leave the land in a stable condition. Bonding shall be required at \$2,000.00 per acre for all acreage included in the current five-year reclamation plan. In the alternative, the planning director may accept a civil engineer's estimate for determining the amount of bonding. If the applicant is bonded with the state, the borough's bonding requirement is waived. Compliance with reclamation plans shall be enforced under KPB 21.50.
- C. The following measures must be considered in the [PREPARING] preparation, approval and [IMPLEMENTING] implementation of the reclamation plan, although not all will be applicable to every reclamation plan.
 - 1. Topsoil that is not promptly redistributed to an area being reclaimed will be separated and stockpiled for future use. [THIS MATERIAL WILL BE PROTECTED FROM EROSION AND CONTAMINATION BY ACIDIC OR TOXIC MATERIALS AND PRESERVED IN A CONDITION SUITABLE FOR LATER USE.]
 - 2. The area will be backfilled, graded and recontoured using strippings, overburden, and topsoil [TO A CONDITION THAT ALLOWS FOR THE REESTABLISHMENT OF RENEWABLE RESOURCES ON THE SITE WITHIN A REASONABLE PERIOD OF TIME. IT WILL BE STABILIZED TO A CONDITION THAT WILL ALLOW SUFFICIENT MOISTURE FOR

REVEGETATION] so that it will be stabilized to a condition that will allow for the revegetation as required by KPB 21.29.060(B).

3. [SUFFICIENT QUANTITIES OF STOCKPILED OR IMPORTED TOPSOIL WILL BE SPREAD OVER THE RECLAIMED AREA TO A DEPTH OF FOUR INCHES TO PROMOTE NATURAL PLANT GROWTH THAT CAN REASONABLY BE EXPECTED TO REVEGETATE THE AREA WITHIN FIVE YEARS. THE APPLICANT MAY USE THE EXISTING NATURAL ORGANIC BLANKET REPRESENTATIVE OF THE PROJECT AREA IF THE SOIL IS FOUND TO HAVE AN ORGANIC CONTENT OF 5% OR MORE AND MEETS THE SPECIFICATION OF CLASS B TOPSOIL REQUIREMENTS AS SET BY ALASKA TEST METHOD (ATM) T-6.] The [MATERIAL] topsoil used for reclamation shall be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by a licensed engineer.
4. Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation shall be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.
5. [PEAT AND T]Topsoil mine operations shall ensure a minimum of [TWO] four inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).
6. Ponding may be used as a reclamation method as approved by the planning commission.

- D. The five-year reclamation plan shall describe the total acreage to be reclaimed [EACH YEAR, A LIST OF EQUIPMENT (TYPE AND QUANTITY) TO BE USED IN RECLAMATION, AND A TIME SCHEDULE OF RECLAMATION MEASURES] relative to the total excavation plan.

21.29.070. Permit extension and revocation.

- A. Conditional land use permittees must submit a request in writing for permit extension every five years after the permit is issued. Requests for permit extension must be made at least 30 days prior to permit expiration. Counter permittees must submit any request for a 12-month extension at least 30 days prior to the expiration of the original 12-month permit period.
- B. A permit extension certificate for a CLUP may be granted by the planning director after 5 years, and after one year for a counter permit where no modification to operations or conditions are proposed.

- C. Permit extension may be denied if: (1) reclamation required by this chapter and the original permit has not been performed; (2) the permittee is otherwise in noncompliance with the original permit conditions; or (3) the permittee has had a permit violation in the last two years and has not fulfilled compliance requests.
- D. A modification application shall be processed pursuant to KPB 21.29.030-050 with public notice given as provided by KPB 21.25.060 when operators request modification of their permit conditions based on changes in operations set forth in the modification application.
- E. There shall be no fee for permit extensions approved by the planning director. The fee for a permit modification processed under KPB 21.29.070(D) will be the same as an original permit application in the amount listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees.
- F. Failure to submit a request for extension will result in the expiration of the permit. The borough may issue a permit termination document upon expiration pursuant to KPB 21.29.080. Once a permit has expired, a new permit application approval process is required in order to operate the material site.
- G. Permits may be revoked pursuant to KPB 21.50. 21.29.080. - Permit termination.

When a permit expires, is revoked, or a permittee requests termination of their permit, a review of permit conditions and site inspections will be conducted by the planning department to ensure code compliance and verify site reclamation prior to termination. When the planning director determines that a site qualifies for termination, a termination document shall be issued to the permittee.

21.29.090. Permit modifications.

If a permittee revises or intends to revise operations (at a time other than permit extension) so that they are no longer consistent with the original application, a permit modification is required. The planning director shall determine whether the revision to operations requires a modification. Permit modification shall be processed in the same manner as original permits.

21.29.100. Recordation.

All permits, permit extensions, modified permits, prior existing uses, and terminations shall be recorded. Failure to record a material site document does not affect the validity of the documents.

21.29.110. Violations.

- A. Violations of this chapter shall be governed by KPB 21.50.
- B. In addition to the remedies provided in KPB 21.50, the planning director may require bonding in a form and amount adequate to protect the borough's interests for an owner or operator who has been cited for three violations of KPB 21.50, 21.25, and 21.29 within a three-year period. The violations need not be committed at the same material site. Failure to provide requested bonding may result in permit revocation proceedings.

21.29.120. Prior existing uses.

- A. Material sites are not held to the standards and conditions of a CLUP if a prior existing use (PEU) determination was granted for the parcel in accordance with KPB 21.29.120(B). To qualify as a PEU, a parcel's use as a material site must have commenced or have been operated after May 21, 1986, and prior to May 21, 1996, provided that the subject use continues in the same location. In no event shall a prior existing use be expanded beyond the smaller of the lot, block, or tract lines as they existed on May 21, 1996. If a parcel is further subdivided after May 21, 1996, the pre-existing use may not be expanded to any lot, tract, or parcel where extraction had not occurred before or on February 16, 1999. If a parcel is subdivided where extraction has already occurred, the prior existing use is considered abandoned, and a CLUP must be obtained for each parcel intended for further material site operations. The parcel owner may overcome this presumption of abandonment by showing that the subdivision is not inconsistent with material site operation. If a parcel subject to a prior existing use is conveyed, the prior existing use survives the conveyance.
- B. Owners of sites must have applied to be registered as a prior existing use prior to January 1, 2001.
- C. [ANY PRIOR EXISTING USE THAT HAS NOT OPERATED AS A MATERIAL SITE BETWEEN MAY 21, 1996, AND MAY 21, 2011, IS CONSIDERED ABANDONED AND MUST THEREAFTER COMPLY WITH THE PERMIT REQUIREMENTS OF THIS CHAPTER. THE PLANNING DIRECTOR SHALL DETERMINE WHETHER A PRIOR EXISTING USE HAS BEEN ABANDONED. AFTER GIVING NOTICE TO THE PARCEL OWNER THAT A PEU IS CONSIDERED ABANDONED, A PARCEL OWNER MAY

PROTEST THE TERMINATION OF THE PEU BY FILING WRITTEN NOTICE WITH THE PLANNING DIRECTOR ON A FORM PROVIDED BY THE PLANNING DEPARTMENT. WHEN A PROTEST BY A PARCEL OWNER IS FILED, NOTICE AND AN OPPORTUNITY TO MAKE WRITTEN COMMENTS REGARDING PRIOR EXISTING USE STATUS SHALL BE ISSUED TO OWNERS OF PROPERTY WITHIN A ONE-HALF MILE RADIUS OF THE PARCEL BOUNDARIES OF THE SITE. THE OWNER OF THE PARCEL SUBJECT TO THE PRIOR EXISTING USE MAY SUBMIT WRITTEN INFORMATION, AND THE PLANNING DIRECTOR MAY GATHER AND CONSIDER ANY INFORMATION RELEVANT TO WHETHER A MATERIAL SITE HAS OPERATED. THE PLANNING DIRECTOR MAY CONDUCT A HEARING IF HE OR SHE BELIEVES IT WOULD ASSIST THE DECISION-MAKING PROCESS. THE PLANNING DIRECTOR SHALL ISSUE A WRITTEN DETERMINATION WHICH SHALL BE DISTRIBUTED TO ALL PERSONS MAKING WRITTEN COMMENTS. THE PLANNING DIRECTOR'S DECISION REGARDING TERMINATION OF THE PRIOR EXISTING USE STATUS MAY BE APPEALED TO THE PLANNING COMMISSION WITHIN 15 DAYS OF THE DATE OF THE NOTICE OF DECISION.]

The owner of a material site that has been granted a PEU determination shall provide proof of compliance with AS 27.19.030 – 050 concerning reclamation to the planning department no later than July 1, 2022. The proof shall consist of an Alaska Department of Natural Resources (DNR) approved reclamation plan and receipt for bonding or a letter of intent filed with DNR.

1. The planning department may request proof of continued compliance with AS 27.19.030 – 050 on an annual basis.
2. Pursuant to KPB 21.29.110 the enforcement process and remedies set forth in KPB 21.50 shall govern if the proof that the statutory requirements contained in AS 27.19.030-050 is not provided to the planning department.

SECTION 3. That KPB 21.50.055 is hereby amended, as follows:

21.50.055. Fines.

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

CODE CHAPTER & SECTION	VIOLATION DESCRIPTION	DAILY FINE
KPB 20.10.030(A)	Offering land for sale without final plat approval	\$300.00
KPB 20.10.030(B)	Filing/recording unapproved subdivision/plat	\$300.00
KPB 20.10.030(C)	Violation of subdivision code or condition	\$300.00
KPB 21.05.040(C)	Violation of variance conditions	\$300.00
KPB 21.06.030(D)	Structure or activity prohibited by KPB 21.06	\$300.00
KPB 21.06.040	Failure to obtain a Development Permit/Floodplain Management	\$300.00
KPB 21.06.045	Failure to obtain a SMFDA Development Permit/Violation of SMFDA permit conditions/Floodplain Management	\$300.00
KPB 21.06.050	Violation of permit conditions/Floodplain Management	\$300.00
KPB 21.18.071	Failure to obtain staff permit/Violation of staff permit/Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.072	Failure to obtain limited commercial activity permit/Violation of permit conditions/Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.075	Prohibited use or structure/Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.081	Failure to obtain Conditional Use Permit/Violation of Conditional Use Permit Condition/Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.090	Failure to obtain prior existing use/structure permit/Violation of permit conditions/Anadromous Streams Habitat Protection	\$300.00
KPB 21.18.135(C)	Violation of emergency permit conditions/anadromous stream habitat protection	\$300.00

CODE CHAPTER & SECTION	VIOLATION DESCRIPTION	DAILY FINE
KPB 21.25.040	Failure to Obtain a Permit/Material Site/Correctional community residential center/Concentrated Animal Feeding Operation	\$300.00
KPB 21.28.030	Violation of permit conditions/Concentrated Animal Feeding Operations	\$300.00
KPB 21.29.020	Failure to Obtain a counter permit/Material Site Permits	\$300.00
KPB 21.29.050	Violation of Conditional Land Use Permit Conditions/Material Site Permits Also applies to KPB 21.26 material site permits	\$300.00
KPB 21.29.060	Violation of Reclamation Plan/Material Site Permits Also applies to KPB 21.26 material site permits	\$300.00
<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

CODE CHAPTER & SECTION	VIOLATION DESCRIPTION	DAILY FINE
KPB 21.44.160(C)	Violation of Development Standards/Single Family Zoning/Local Option Zoning	\$300.00
KPB 21.44.165(A)(B)	Prohibited use	\$300.00
KPB 21.44.165(C)	Violation of Development Standards/Small Lot Residential Zoning/Local Option Zoning	\$300.00
KPB 21.44.170(A)(B)	Prohibited use	\$300.00
KPB 21.44.170(C)	Violation of Development Standards/Rural Residential District/Local Option Zoning	\$300.00
KPB 21.44.175(B)(C)	Prohibited Use	\$300.00
KPB 21.44.175(D)	Violation of Development Standards/Residential Waterfront	\$300.00
KPB 21.44.180(A)(B)	Prohibited Use	\$300.00
KPB 21.44.180(C)	Violation of Development Standards/Multi-Family Residential District/Local Option Zoning	\$300.00
KPB 21.44.190(A)(B)	Prohibited Use	\$300.00
KPB 21.44.190(C)	Violation of Development Standards/Industrial District/Local Option Zoning	\$300.00
KPB 21.46.030(b)	Failure to maintain bear-resistant garbage cans/Local option zone/Birch and Grove Ridge subdivisions Rural Residential District	\$300.00
KPB 21.50.100(F)	Removal of posted enforcement notice	\$300.00
KPB 21.50.100(G)	Violation of enforcement notice	\$1,000.00
KPB 21.50.130(I)	Violation of an enforcement order	\$1,000.00

SECTION 4. That this ordinance shall become effective upon its enactment.

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

Brent Johnson, Assembly President

ATTEST:

Johani Blankenship, MMC, Borough Clerk

Yes: Bjorkman, Derkevorkian, Elam, Tupper, Johnson

No: Chesley, Cox, Ecklund

Absent: Hibbert

[Clerk's Note: At the 01/18/22 meeting this amendment failed 4 Yes, 4 No, 1 Absent. Notice of reconsideration was given by Mr. Elam.]

Kenai Peninsula Borough Assembly

MEMORANDUM

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

FROM: Bill Elam, Assembly Member *BE*

DATE: January 18, 2022

SUBJECT: Elam Amendment #2 to Ordinance 2021-41, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures (Johnson, Mayor)

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

- Amend Section 2, KPB 21.29.040(A), 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 visual impacts. ~~**[Only the conditions set forth in KPB 21.29.050 may be imposed to meet these standards:]**~~ **The mandatory conditions of 21.29.050 are express conditions precedent to the granting of any conditional land use permit and after a public hearing, the planning commission must find, in writing, that through imposition of all the mandatory conditions under KPB 21.29.050 that the following standards are met:**
1. ~~**[Protects against the lowering of water sources serving other properties;]**~~ **The use is not inconsistent with the applicable comprehensive plan;**
 2. ~~**[Protects against physical damage to [other] adjacent properties;]**~~ **The use will preserve the value, spirit, character, and integrity of the surrounding area;**

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Date: January 18, 2022

RE: Elam Amendment #2 to O2021-41

3. ~~[[Minimizes] Protects against off-site movement of dust;]~~
The applicant has met all other requirements of this chapter pertaining to the use in question;
4. ~~[[Minimizes] Protects against noise disturbance to other properties;]]~~
That granting the permit will not be harmful to the public health, safety and general welfare; and
5. ~~[[Minimizes] Protects against visual impacts of the material site; [and]]~~
The sufficient setbacks, lot area, buffers or other safeguards are being provided to meet the conditions listed in KPB 21.29.050.
- ~~[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.]~~

Your consideration of this amendment is appreciated.

Kenai Peninsula Borough Assembly

MEMORANDUM

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

FROM: Cindy Ecklund, Assembly Member ^{CE}
Mike Tupper, Assembly Member ^{MT}

DATE: January 18, 2022

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

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

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

21.29.050. Permit conditions.

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

...

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

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

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

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January 18, 2021

Re: Ecklund and Tupper Amendments to O2021-41

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

21.29.050. Permit conditions.

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

...

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

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

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

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

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

...

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

...

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

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January 18, 2021

Re: Ecklund and Tupper Amendments to O2021-41

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

➤ Amend Section 2, KPB 21.29.055, as follows:

21.29.055. Decision.

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

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

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

Your consideration of these amendments is appreciated.

Introduced by: Elam, Derkevorkian
Substitute Introduced: 02/01/22
O2021-41 (Mayor, Johnson) See Original Ordinance for Prior History
Action:
Vote:

**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

CODE CHAPTER & SECTION	VIOLATION DESCRIPTION	DAILY FINE
KPB 21.44.130(C)(D)	Violation of Home Occupation Standards and Conditions/Local Option Zoning	\$300.00
KPB 21.44.130(F)	Disallowed Home Occupation/Local Option Zoning	\$300.00
KPB 21.44.135	Failure to file development notice	\$300.00
KPB 21.44.160(A)(B)	Prohibited use	\$300.00
KPB 21.44.160(C)	Violation of Development Standards/Single Family Zoning/Local Option Zoning	\$300.00
KPB 21.44.165(A)(B)	Prohibited use	\$300.00
KPB 21.44.165(C)	Violation of Development Standards/Small Lot Residential Zoning/Local Option Zoning	\$300.00
KPB 21.44.170(A)(B)	Prohibited use	\$300.00
KPB 21.44.170(C)	Violation of Development Standards/Rural Residential District/Local Option Zoning	\$300.00
KPB 21.44.175(B)(C)	Prohibited Use	\$300.00
KPB 21.44.175(D)	Violation of Development Standards/Residential Waterfront	\$300.00
KPB 21.44.180(A)(B)	Prohibited Use	\$300.00
KPB 21.44.180(C)	Violation of Development Standards/Multi-Family Residential District/Local Option Zoning	\$300.00
KPB 21.44.190(A)(B)	Prohibited Use	\$300.00
KPB 21.44.190(C)	Violation of Development Standards/Industrial District/Local Option Zoning	\$300.00

CODE CHAPTER & SECTION	VIOLATION DESCRIPTION	DAILY FINE
KPB 21.46.030(b)	Failure to maintain bear-resistant garbage cans/Local option zone/Birch and Grove Ridge subdivisions Rural Residential District	\$300.00
KPB 21.50.100(F)	Removal of posted enforcement notice	\$300.00
KPB 21.50.100(G)	Violation of enforcement notice	\$1,000.00
KPB 21.50.130(I)	Violation of an enforcement order	\$1,000.00

SECTION 4. That this ordinance shall become effective upon its enactment.

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

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

Kenai Peninsula Borough

Planning Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor CP

FROM: Melanie Aeschliman, Planning Director MA

DATE: November 23, 2021

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

On December 13, 2019, the assembly failed to enact Ordinance 2019-30(SUB). As requested, this proposed ordinance reintroduces, word for word, O2019-30(SUB). Any amendments to this proposed ordinance will be proposed as separate amendment memorandums.

A timeline regarding the material site work group recommendations, planning commission recommendations, and the history of O2019-30(SUB) is attached.

Your consideration of these amendments is appreciated.

MEMORANDUM

TO: Blair Martin, Planning Commission Chair
Members, Kenai Peninsula Borough Planning Commission

THRU: Melanie Aeschliman, Planning Director *MA*
Samantha Lopez, River Center Manager *SL*

FROM: Bryan Taylor, Planner *BT*

DATE: November 17, 2021

RE: Reintroduction of Ordinance 2019-30 SUB; An Ordinance Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures

The mayor would like to reintroduce the above ordinance at the December 7, 2021, Assembly meeting. The Planning Commission reviewed the original ordinance at its regularly scheduled November 12, 2019 meeting. Prior to that, the Planning Commission reviewed an ordinance proposed by the Material Site Work Group and recommended amendments. Ordinance 2019-30 Substitute incorporates all changes recommended by the Planning Commission. Below is a timeline of the ordinance's development and legislative history.

- **January 16, 2018:** KPB Assembly established a Material Site Work Group (MSWG) through Resolution 2018-004 Substitute.
- **January 31, 2018 through April 30, 2019:** The MSWG held work session meetings and took public comment. (Meetings were not held between May 23 and October 10, 2018, to avoid overlapping with the construction season when operators would not be available to participate.) At its second meeting on February 14, 2018, the MSWG adopted the following mission statement: *"To evaluate our existing KPB codes with respect to material sites (gravel extraction) to ensure that we collectively believe the appropriate balance exists to meet the need for affordable development while also protecting quality of life for our residents."*
- **May 15, 2018:** Through Resolution 2018-25, the Assembly extended the deadline for the MSWG to produce a report until April 30, 2019.
- **April 30, 2019:** At its final meeting, the MSWG forwarded a proposed ordinance to the Planning Commission for review.
- **May 13, 2019:** The Planning Commission held a regular meeting and the MSWG's proposed ordinance was placed on the Planning Commission's agenda under "Pending Items for Future Action". There was some commission discussion of the item. The minutes noted that the commission would consider it at its June 24, 2019, meeting when

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Date: November 17, 2021

To: Blair Martin, Planning Commission Chair
Members, Kenai Peninsula Borough Planning Commission

RE: Reintroduction of Ordinance 2019-30 SUB; An Ordinance Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures

key staff and commissioners could be present.

- **June 18, 2019:** The chair of the MSWG, Robert Ruffner, gave a presentation to the Assembly during its regularly scheduled meeting.
- **June 24, 2019:** The Planning Commission held a public hearing on the unnumbered ordinance proposed by the MSWG entitled "An Ordinance Amending KPB Chapter 21.25, Conditional Land Use Permits and Amending KPB Chapter 21.29, Material Site Permits".
- **July 15, 2019:** The Planning Commission held a work session on the ordinance proposed by the MSWG.
- **August 26, 2019:** The Planning Commission held a public hearing on the ordinance proposed by the MSWG. The commission voted to postpone further consideration until its September 9, 2019, regular meeting.
- **September 9, 2019:** The Planning Commission continued deliberation on the ordinance proposed by the MSWG. After voting on a number of proposed amendments to the ordinance, the commission requested staff arrange a work session with the Assembly and postponed further deliberation.
- **October 24, 2019:** A memo providing a sectional analysis of proposed amendments was sent from Sean Kelly, Deputy Borough Attorney, and Max Best, Planning Director, to KPB Assembly. The memo outlined amendments to the MSWG ordinance proposed by the Planning Commission. All amendments outlined within the memo were later included within Ordinance 2019-30 Substitute.
- **November 5, 2019:** A joint work session between the Assembly and the Planning Commission was held regarding Ordinance 2019-30. At its regularly scheduled meeting, Ordinance 2019-30 was introduced and the Assembly set a public hearing for December 3, 2019.
- **November 12, 2019:** At its regular meeting, the Planning Commission recommended approval of Ordinance 2019-30 and several amendments.
- **November 20, 2019:** In a memo to the KPB Assembly, Max Best, Planning Director, notified the Assembly of the Planning Commission's recommendation of approval and outlined recommended amendments proposed by the Planning Commission at its November 12, 2019, meeting. All amendments outlined within the memo were included within Ordinance 2019-30 Substitute.
- **December 3, 2019:** The Assembly held a public hearing on Ordinance 2019-30. A motion to amend by substitute was carried but the motion to enact the substitute ordinance failed. Assembly member Bjorkman gave notice of reconsideration of Ordinance 2019-30 Substitute.
- **January 7, 2020:** At the Assembly's regularly scheduled meeting, a motion to reconsider Ordinance 2019-30 Substitute failed.

Kenai Peninsula Borough

Legal Department

MEMORANDUM

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

FROM: A. Walker Steinhage, Deputy Borough Attorney *AW*
Sean Kelley, Borough Attorney *SK*

CC: Charlie Pierce, Mayor
Melanie Aeschliman, Planning Director

DATE: January 14, 2022

RE: Questions for the Assembly to consider regarding Ordinance 2021-41

Appeals from Planning Commission decisions approving or denying material site conditional land use permit (CLUP) applications, and remands to the Commission which sometimes follow such appeals, cost the Borough time, resources, and money.

In response to inquiries from KPB Assembly members, the purpose of this memo is to present some questions for the Assembly to consider as it reviews Ordinance 2021-41. If the Assembly is able to resolve some or all of these questions, the costs associated with appeals from the Commission's CLUP decisions may be alleviated. The questions are as follows:

1) Should the Planning Commission continue to have the discretion to deny a CLUP application?

Current Code: The Planning Commission is vested with discretion to deny a permit application. Under KPB 21.25.050(B) the Planning Commission shall either "approve, modify or disapprove the permit application."

O2021-41 as proposed: The new section KPB 21.29.055 provides that the Planning Commission shall approve permit applications that meet all the mandatory conditions under KPB 21.29.050 and shall disapprove a permit application that does not meet all the conditions under KPB 21.29.050.

2) If the Planning Commission has the discretion to deny a CLUP application, what is the scope of that discretion?

- a. Should the Planning Commission have the discretion to deny a CLUP application which otherwise meets or exceeds all the conditions under KPB 21.29.050 if the Commission finds that the application does not meet the standards established under KPB 21.29.040?
- b. Should the Planning Commission have the discretion to deny a CLUP application which otherwise meets or exceeds all the conditions under KPB 21.29.050 **and** even if the Commission finds that the application meets the standards established under KPB 21.29.040?

3) If the Assembly decides the Planning Commission should have the discretion to deny a CLUP application, how can the applicable KPB Code (specifically KPB 21.29.040 and 21.29.050) be improved to best equip the Commission to make findings of fact, based on substantial evidence in the record, to withstand scrutiny on appeal and thereby reduce remands after appellate review?

Several tables are appended to this memo comparing current KPB Code language and the language proposed in Ordinance 02021-41¹ with the language drawn from the analogous codes from other second-class boroughs; namely, the Matanuska-Susitna Borough (Appendix A), the Ketchikan Gateway Borough (Appendix B), the Kodiak Island Borough (Appendix C), and the Fairbanks North Star Borough (Appendix D).

4) If the Assembly decides to eliminate the Planning Commission's discretion to deny CLUP applications, then what is the purpose of the Planning Commission's review of CLUP applications?

- a. If the Planning Commission's discretion is eliminated, then should review of CLUP applications simply become an administrative process?
- b. What effect will eliminating the Planning Commission's discretion to deny CLUP applications have on the public's ability to be heard?

Enclosures:

- (1) Appendix A
- (2) Appendix B
- (3) Appendix C
- (4) Appendix D
- (5) Sectional Analysis provided when O2019-30 was originally considered

¹ New Text Underlined; [DELETED TEXT BRACKETED]

APPENDIX A

KPB/MATANUSKA-SUSITNA BOROUGH

KPB 21.29.040. Standards for sand, gravel or material sites. (As proposed in O2021-41)	MSB 17.30.060 General Standards for Approval
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:	(A) In granting an administrative permit or a conditional use permit, the director or commission must make the following findings:
1. Protects against the lowering of water sources serving other properties;	(1) that the use is not inconsistent with the applicable comprehensive plan;
2. Protects against physical damage to [OTHER] <u>adjacent</u> properties;	(2) that the use will preserve the value, spirit, character, and integrity of the surrounding area;
3. [MINIMIZES] <u>Protects against</u> off-site movement of dust;	(3) that the applicant has met all other requirements of this chapter pertaining to the use in question;
4. [MINIMIZES] <u>Protects against</u> noise disturbance to other properties;	(4) that granting the permit will not be harmful to the public health, safety and general welfare; and
5. [MINIMIZES] <u>Protects against</u> visual impacts of the material site; [AND]	(5) that the sufficient setbacks, lot area, buffers or other safeguards are being provided to meet the conditions listed in MSB 17.30.050 (B).
6. Provides for alternate post-mining land uses[.];	
<u>7. Protects Receiving Waters against adverse effects to fish and wildlife habitat;</u>	
<u>8. Protects against traffic impacts; and</u>	
<u>9. Provides consistency with the objectives of the Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents.</u>	

APPENDIX B

KPB/KETCHIKAN GATEWAY BOROUGH

KPB 21.29.040. Standards for sand, gravel or material sites. (As proposed in O2021-41)	KGB Code 18.55.050
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:	(a) Purpose. A conditional use permit, issued hereunder, is a device which gives flexibility to the zoning ordinance in a uniform and controlled manner. It permits inclusion, in zones where it is permitted by the zoning ordinance (of which this chapter is part), of uses which are basically desirable to the community, but where the nature of the use will not permit its location at every location in the said zones without restrictions and conditions designed to fit the special problems which the use presents. A conditional use permit allows a landowner to put his property to a use which the zoning ordinance expressly permits: It does not allow a landowner to use his property in a manner forbidden by the zoning ordinance.
1. Protects against the lowering of water sources serving other properties;	(b) Standards. As express conditions precedent to the granting of any conditional use permit, a majority of the planning commission members (not merely a majority of the members present), after a public hearing, must find in writing that:
2. Protects against physical damage to [OTHER] <u>adjacent</u> properties;	(1) The requested conditional use is reasonably necessary for the public health, safety, and general welfare; and
3. [MINIMIZES] <u>Protects against</u> off-site movement of dust;	(2) The requested conditional use will not permanently or substantially injure the lawful use of neighboring uses; and
4. [MINIMIZES] <u>Protects against</u> noise disturbance to other properties;	(3) The requested conditional use will generally be in harmony with the comprehensive plan; and
5. [MINIMIZES] <u>Protects against</u> visual impacts of the material site; [AND]	(4) The requested conditional use is a conditional use expressly permitted by the zoning ordinance in the zone in which the conditional use permit is requested.
6. Provides for alternate post-mining land uses[.];	
7. <u>Protects Receiving Waters against adverse effects to fish and wildlife habitat;</u>	
8. <u>Protects against traffic impacts; and</u>	
9. <u>Provides consistency with the objectives of the Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents.</u>	

APPENDIX C

KPB/KODIAK ISLAND BOROUGH

KPB 21.29.040. Standards for sand, gravel or material sites. (As proposed in O2021-41)	KIB 17.200.050 General Standards for Approval²
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:	A. <i>Approval.</i> If it is the finding of the commission, after consideration of staff's report and receipt of testimony at the public hearing, that the use proposed in the application, or under appropriate conditions or restrictions, meets all of the following, the conditional use permit shall be granted:
1. Protects against the lowering of water sources serving other properties;	1. That the conditional use will preserve the value, spirit, character and integrity of the surrounding area;
2. Protects against physical damage to [OTHER] <u>adjacent</u> properties;	2. That the conditional use fulfills all other requirements of this chapter pertaining to the conditional use in question;
3. [MINIMIZES] <u>Protects against</u> off-site movement of dust;	3. That granting the conditional use permit will not be harmful to the public health, safety, convenience and comfort;
4. [MINIMIZES] <u>Protects against</u> noise disturbance to other properties;	4. That the sufficient setbacks, lot area, buffers or other safeguards are being provided to meet the conditions listed in subsections <u>(A)(1)</u> through <u>(3)</u> of this section;
5. [MINIMIZES] <u>Protects against</u> visual impacts of the material site; [AND]	5. If the permit is for a public use or structure, the commission must find that the proposed use or structure is located in a manner which will maximize public benefits.
6. Provides for alternate post-mining land uses[.];	
<u>7. Protects Receiving Waters against adverse effects to fish and wildlife habitat;</u>	
<u>8. Protects against traffic impacts; and</u>	
<u>9. Provides consistency with the objectives of the Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents.</u>	

² Interestingly, KIB Code 17.200.050 contains the following subsection: "B. Denial. If the commission finds, after consideration of staff's report and receipt of testimony at the public hearing, that it cannot make all of the required findings in subsection A of this section it shall deny the conditional use permit."

APPENDIX D
KPB/FAIRBANKS NORTH STAR BOROUGH

KPB 21.29.040. Standards for sand, gravel or material sites. (As proposed in O2021-41)	FNSB 18.104.050 Procedures for conditional uses.
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:	C. Hearing and Decision by the Planning Commission. The Planning Commission shall review, hear and decide whether or not to approve a request for a conditional use. The Planning Commission shall also consider and adopt findings in each of the following:
1. Protects against the lowering of water sources serving other properties;	1. Whether or not the proposed conditional use conforms to the intent and purpose of this title and of other ordinances and state statutes;
2. Protects against physical damage to [OTHER] <u>adjacent</u> properties;	2. Whether or not there are adequate existing sewage capacities, transportation facilities, energy and water supplies, and other public services to serve the proposed conditional use;
3. [MINIMIZES] <u>Protects against</u> off-site movement of dust;	3. Whether or not the proposed conditional use will protect the public health, safety and welfare.
4. [MINIMIZES] <u>Protects against</u> noise disturbance to other properties;	
5. [MINIMIZES] <u>Protects against</u> visual impacts of the material site; [AND]	
6. Provides for alternate post-mining land uses[.];	
7. <u>Protects Receiving Waters against adverse effects to fish and wildlife habitat;</u>	
8. <u>Protects against traffic impacts; and</u>	
9. <u>Provides consistency with the objectives of the Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents.</u>	

Kenai Peninsula Borough

Legal Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor

FROM: Sean Kelley, Deputy Borough Attorney
Max Best, Planning Director

DATE: October 24, 2019

RE: Material Site Sectional Analysis

Please find following a sectional analysis of the amendments to the material site ordinance proposed by the Kenai Peninsula Borough Planning Commission.

1. In KPB 21.25.030. - Definitions.

A definition of "assisted living home" is added because a setback is proposed to be required from those facilities. A definition for "development plan" is added to support a new exemption from the material site ordinance that allows extraction for on-site development. A definition of "disturbed" is added and the definition of "exhausted" is eliminated. This change is made to avoid the situation where reclamation is delayed or avoided by asserting a material site is not yet exhausted, instead reclamation is in reference to disturbed areas. The term "disturbed" is also consistent with the state of Alaska reclamation language. A definition of "haul route" is added to support the proposed requirement for off-site dust suppression. A definition of "permit area" is added—this clarifies that a portion of a parcel, as opposed to an entire parcel, may be subject to a material site permit and defines what attributes will be considered part of the permitted area. A definition of "vicinity" is added to include all existing uses within the ½-mile notification area. This defines the area that should be considered when waiving or lessening the conditions on the permit.

Material Site Sectional Analysis
October 24, 2019
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2. KPB 21.29.010. -Material extraction exempt from obtaining a permit.

Subsection (D) adds a new exemption for parcels with a development plan on file with the planning department. This provision exempts from the ordinance short-term extraction that is incidental to site development for a building project.

3. KPB 21.29.030. -Application procedure.

Surface water protection measures are moved from the site plan section of the application to Paragraph (A)(8) because a surveyor is required to prepare the site plan, but an engineer is necessary to design the surface water protection measures.

Paragraph (A)(9)(f) is clarified to require more than 1 test hole placed anywhere on the parcel as that requirement allowed for taking the test hole at the highest elevation on a parcel which may not be the most accurate measurement of depth to groundwater. The proposed ordinance requires a test hole for every ten acres of excavated area and the test holes must be four feet below the proposed depth of excavation. This is consistent with the proposed increased requirement that excavation remain four feet above ground water which is consistent with Alaska DEC User's Manual Best Management Practices for Gravel/Rock Aggregate Extraction Projects – Protecting Surface Water & Groundwater Quality in Alaska (Sept. 2012) (hereinafter "Best Management Practices") and is also consistent with the current requirement for counter permits.

4. KPB 21.29.040. -Standards for sand, gravel or material sites.

Three new standards are added that either existing or proposed conditions will meet. Receiving waters are protected for fish and wildlife. This standard is consistent with mandatory condition #6 which requires a setback from waterbodies for material site extraction. Standard #8 is added to protect against traffic impacts which is consistent with the conditions regarding damage to borough roads, proposed ingress and egress, noise, and dust. Standard #9 is added because planning decisions should be consistent with the comprehensive plan.

Material Site Sectional Analysis

October 24, 2019

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5. KPB 21.20.050(A)(1) is changed to require staking the permit boundaries, rather than the parcel boundaries prior to issuance of the permit. (Staking the boundaries of the parcel is currently required at time of application.)
 6. KPB 21.20.050(A)(2) is changed to require a maximum buffer of 100 feet unless the operator can demonstrate to the planning commission that there are good reasons for a reduced buffer. A fence, vegetation, or berm or a combination thereof may be used as a buffer. Unlike the current code, the maximum vegetative buffer is not 50 feet but could be up to the entire 100 foot of buffer required. Another new requirement is that when a buffer area has been denuded prior to review of the application by the planning commission or planning director revegetation may be required. This is to avoid the practice of making application and then destroying the vegetation that could have served as a buffer. Finally, there is a new condition allowing the buffer to be reduced with an approved alternate buffer plan which may consist of a berm, vegetation, fence or other type of buffer solution. For example, a moveable wall that would screen noise and the visual impact of the material site could be allowed.
 7. Language is revised in KPB 21.29.050(A)(3) for consistency by using the term "vicinity" rather than the term "adjacent".
 8. In KPB 21.20.050(A)(6) the buffer from waterbodies is increased to 200 feet. This condition is consistent with the Alaska DEC User Manual Best Management Practices and the newly proposed standard regarding the protection of "receiving waters".
 9. Paragraph KPB 21.29.050(A)(11) is revised to prohibit processing from 7 p.m. to 6 a.m. The current prohibition is 10 p.m. to 6 a.m. for rock crushing. Paragraph (b) is added to allow the planning commission to grant exceptions to the restrictions on processing hours based on a variety of factors including surrounding land uses, topography, screening the material site from adjacent properties and conditions placed on the permit by the planning commission to mitigate the noise, dust, and visual impacts caused by the material site.
 10. Paragraph KPB 21.29.050(A)(12)(b) clarifies the requirement for a reclamation plan and bonding for material sites that are not exempt from the state bonding requirements. This condition is further detailed in KPB 21.29.060(B) addressing reclamation.

Material Site Sectional Analysis

October 24, 2019

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11. Air quality is added to the list of other regulations in condition KPB 21.29.050(A)(13) that a material site is responsible for following.
 12. Language is revised in KPB 21.29.050(A)(14) for consistency by using the term "volunteered" rather than the term "voluntary".
 13. In KPB 21.29.050(A)(16), a new condition clarifies that a material site permit shall not be issued until the 15-day appeal period has passed to avoid someone operating prior to an appeal being filed only to be required to cease because of the stay required by KPB 21.20.260.
 14. A new condition is added in KPB 21.29.050(A)(17), Sound Level. The condition requires that sounds levels from material site activities not exceed 75 dB(A), measured at or within the property boundary of the material site. Some exceptions are made to increase that limit for sound of a short duration between 7 a.m. and 7 p.m. The planning commission may reduce the sound level requirements in consideration of the existing land uses in the vicinity. This sound level requirement has a sunset clause of 365 days after adoption unless extended by the assembly in order to gather information on noise levels and ensure that this new requirement is workable for site operations. This condition meets the standard regarding reduction of noise impacts generated by a material site.
 15. KPB 21.29.050(A)(18) is a new requirement that white noise devices be used instead of high-pitched tone alarms. This requirement may be waived based on existing land uses in the vicinity of the material site. This condition meets the standard regarding reduction of noise impacts generated by a material site.
 16. KPB 21.29.050(A)(19) is a new condition allowing the planning commission or planning director as appropriate to determine the points of ingress and egress of a material site as concerns regarding the direction of haul route traffic are frequently raised. Driveway authorizations for access to public roads must be received prior to permit issuance. This condition meets the standards regarding traffic, noise, and dust.
 17. KPB 21.29.050(A)(20) is a new condition requiring dust suppression on haul routes. The condition can be relaxed based on surrounding land uses. This condition meets the standard regarding reduction of dust generated by material sites.

Material Site Sectional Analysis

October 24, 2019

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18. KPB 21.29.050(A)(21) provides that if surface water protection measures are to be provided as defined in KPB 21.29.030(A)(8), they must be approved by a licensed civil engineer.
 19. KPB 21.29.050(A)(22) is a new condition requiring material sites to maintain one monitoring tube per ten acres of excavated area four feet below the proposed excavation. This condition is consistent with the new requirement that excavation remain four feet above groundwater. This condition addresses the standard of protection of surrounding water sources.
 20. KPB 21.29.050(A)(23) is a new requirement for a setback from local option zoning districts, schools, child care facilities, senior centers, assisted living homes and licensed health care facilities.
 21. KPB 21.20.055, Decision, is added which clarifies the planning commission's authority to approve or disapprove a permit application and authority to modify permit conditions.
 22. KPB 21.29.060 is amended to clarify that reclamation plans last for five years consistent with the five-year renewal requirement for material site permits. Bonding is required at \$2000.00 per acre for all acreage included in the five-year reclamation plan, or the planning director may accept a civil engineer's estimate for determining the amount of the bond. If the applicant is bonded with the state, the applicant need not be bonded with the borough.
 23. KPB 21.29.120, Prior Existing Uses, is amended to delete the provision regarding terminating abandoned material site permits since it was only applicable to permits that did not operate between May 21, 1996 and May 21, 2011. New language is added requiring PEUs to provide proof of compliance with the state reclamation, bonding, and letter of intent requirements. Failure to file this documentation may result in an enforcement action.
 24. KPB 21.50.055, Fines, is amended to include a \$300.00 fine for failure to provide a reclamation plan and proof of bonding or letter of intent pursuant to KPB 21.29.120.

Broyles, Randi

From: Hans Bilben <catchalaska@alaska.net>
Sent: Tuesday, February 8, 2022 6:12 PM
To: Blankenship, Johni
Subject: <EXTERNAL-SENDER>Info for 2/15/22 Committee of the Whole (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.

Date:
2/8/2022

To:
KPB Assembly Members

Subject:
KPB 21.29.050 (A)(2) Buffer Area/Zone

Assembly Members,

During the January 18th Assembly meeting Gina DeBardelaben of McLane Consulting spoke concerning the proposed material site ordinance revision. She followed up with a letter to the Assembly dated January 19th. While most of Gina's proposals have merit and should be considered, her proposal to allow an applicant to extract material from under and within the Buffer Zone is seriously flawed.

The Buffer Zone is just what the name implies, a buffer to protect neighboring property owners from noise, visual, and to some degree dust impacts. The buffer zone is designed in accordance with existing uses of neighboring properties, and may consist of fifty feet of undisturbed natural vegetation, a six foot earthen berm with a 2/1 slope, a six foot fence, or a combination of the three. In cases where there are no neighboring properties that will have negative impacts, the buffer zone can be minimal or nonexistent. When existing uses dictate the need for protections the Buffer Zone is designed accordingly. The reason for the entire CLUP ordinance is stated in **KPB 21.25.020 Purpose**. It says "...impose minimum standards for certain land uses which may be damaging to the public health, safety, and welfare..." Those minimum standards are spelled out in **KPB 21.29.040** and need to be adhered to during all aspects of the proposed use.

Gina's final statement that allowing excavation in the Buffer Zone will reduce need for additional material sites has no merit, as the need for additional sites will be totally demand driven. Another oversight in her proposal is just where is all of the material going to come from to replace and rebuild the Buffer Zone after excavating twenty feet or more in depth.

Allowing excavation in the Buffer Zone deprives borough residents of the protections spelled out in the ordinance, contradicts the stated Purpose of the entire ordinance, and should not be allowed under any circumstances.

Thank you for your service to the people of the Kenai Peninsula,

Broyles, Randi

From: Hans Bilben <catchalaska@alaska.net>
Sent: Wednesday, February 9, 2022 10:52 AM
To: Blankenship, Johni
Subject: <EXTERNAL-SENDER> Supporting Documents for proposed 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.

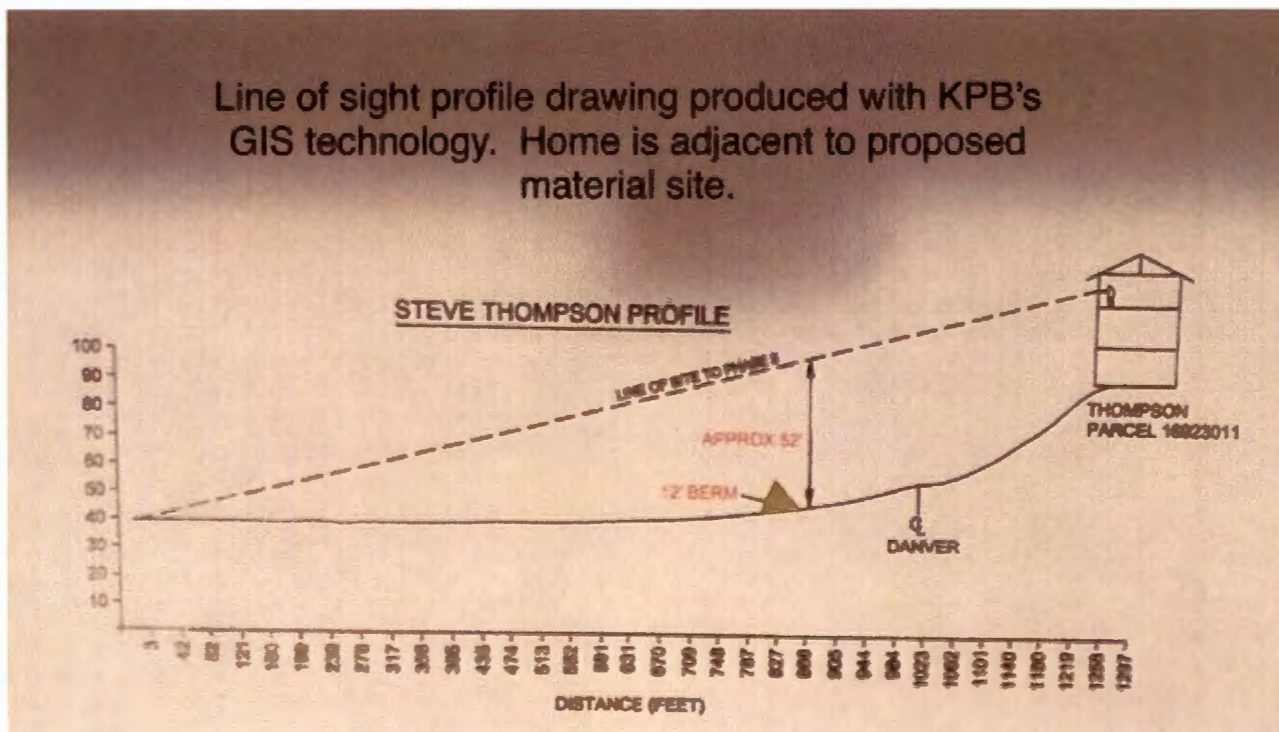
Hi Johni,

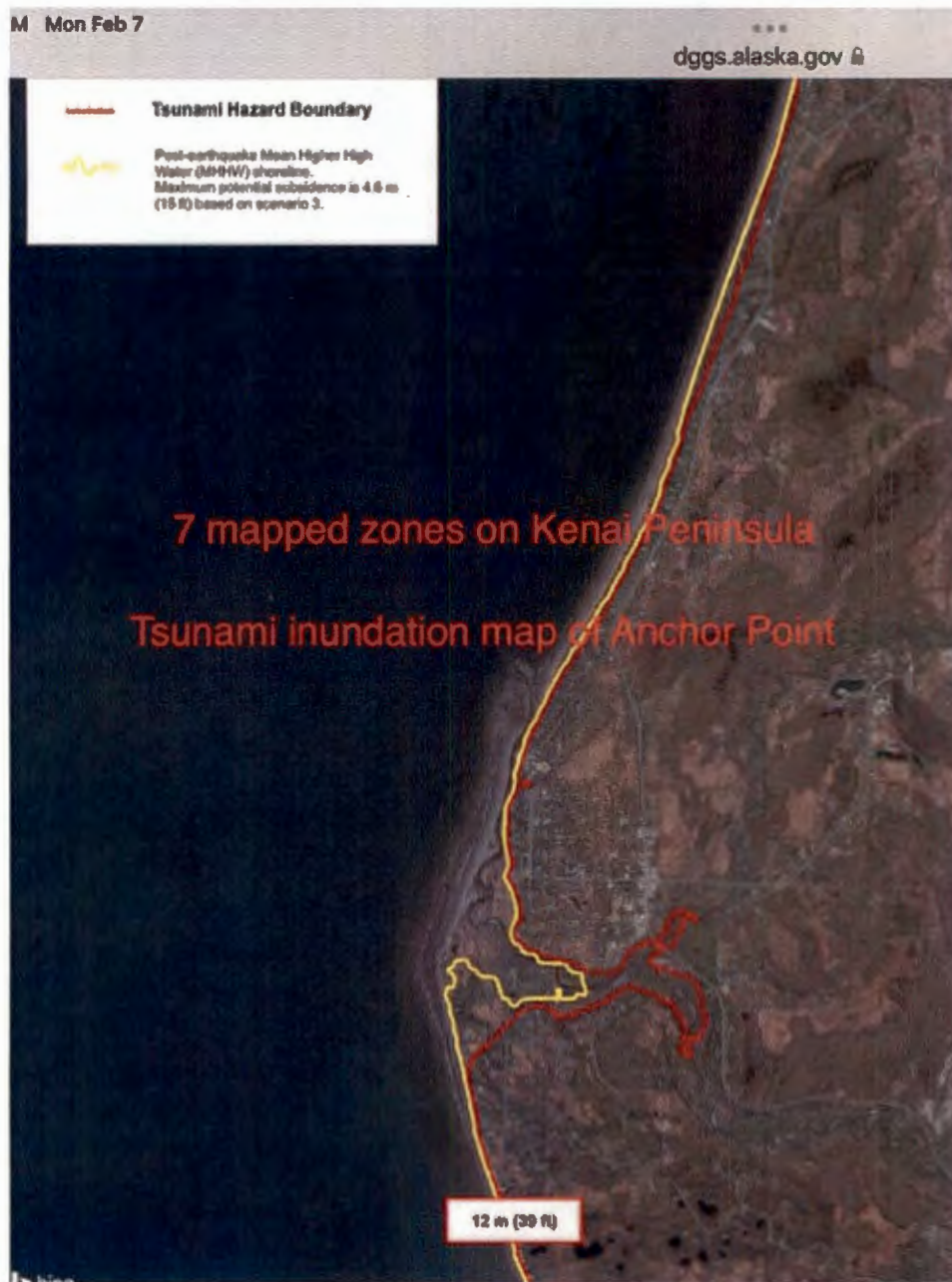
I should have sent these with the proposed amendments yesterday, but OOPS! If you could include these supporting documents with my proposed amendments to the material site ordinance for the Committee of the Whole session on 2/15/2022 that would be great!!

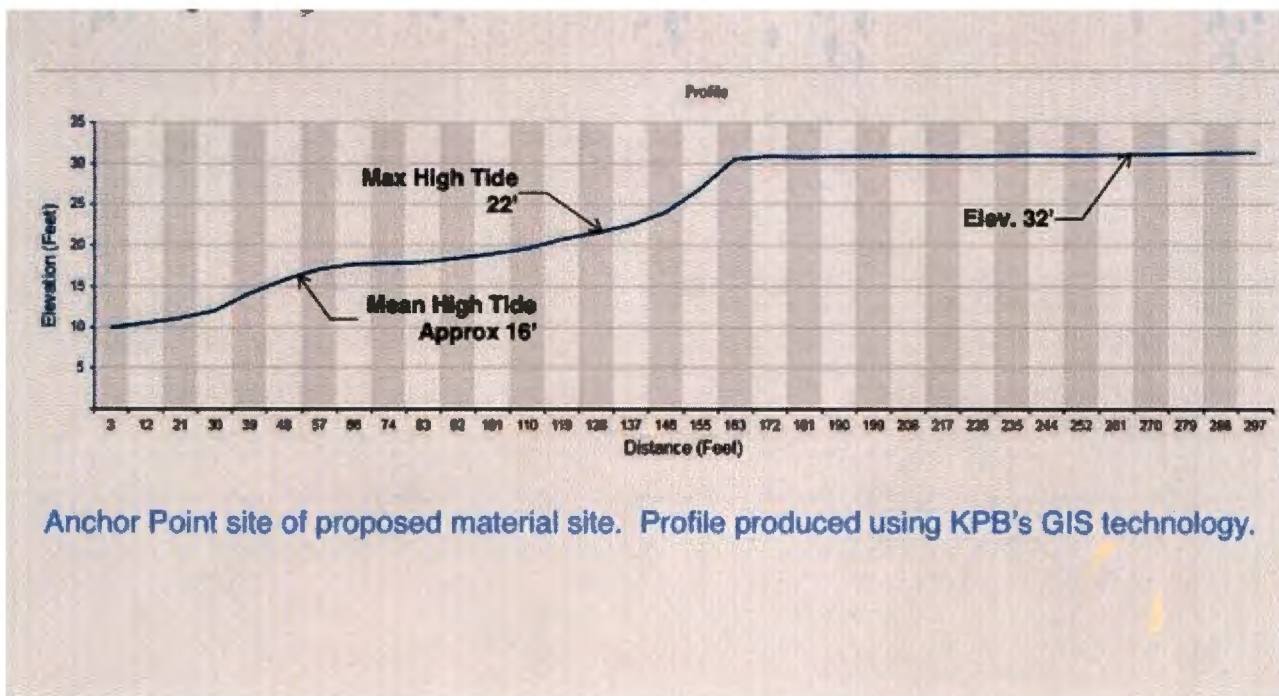
Thanks,

Hans Bilben

Document in support of proposed amendment 21.29.050 (A)(2)(b) Buffer Area.







8:37 AM Wed Feb 9

sms-tsunami-warning.com

100%

rebuilding and road reconstruction) are critical.



Image: Tsunami environmental impact

Combined with the issue of waste is that of hazardous materials and toxic substances that can be inadvertently mixed up with ordinary debris. These include asbestos, oil fuel, and other industrial raw materials and chemicals. Rapid clean-up of affected areas can result in inappropriate disposal methods, including air burning and open dumping, leading to secondary impacts on the environment.

Contamination of soil and water is the second key environmental impact of a tsunami. Salination of water bodies such as rivers, wells, inland lakes, and groundwater aquifers can occur in most cases. This also affects the soil fertility of agricultural lands due to salination and debris contamination, which will affect yields in the medium and long term. Sewage, septic tanks and toilets are damaged contaminating the water supply.

Last but not least, there may be radiation resulting from damage to nuclear plants, as it happened in Japan in March 2011. Since radiation exists for a long time, it has the capacity to inflict damage upon anything exposed to it. Radiation is most dangerous to animals and humans causing destruction as molecules lose their electrons. The damage caused by radiation to the DNA structure determines birth defects, cancers even death.

Cost

Massive costs hit communities and nations when a tsunami happens. Victims and survivors of the tsunami need immediate help from rescue teams.

Broyles, Randi

From: Hans Bilben <catchalaska@alaska.net>
Sent: Tuesday, February 8, 2022 6:00 PM
To: Blankenship, Johni
Cc: Aeschliman, Melanie; Kelley, Sean; Chesley, Lane
Subject: <EXTERNAL-SENDER>Material Site Ordinance Amendments
Attachments: Standard #1 Amendment.pages; CLUP Category Amendment.pages; Buffer Area amendments.pages; Waterbody Amendments.pages

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 provide these proposed amendments to the Committee of the Whole dealing with the Material Site Ordinance on 2/15/2022. If there is any trouble opening these because of format, let me know and I'll adjust accordingly!

Thanks,

Hans Bilben

1. 21.29.050 (A)(2) Buffer Area (3 amendments)

Replace (a) with:

- a. A buffer area shall be established between the area of excavation and the parcel boundaries. The buffer area for a Class 1 (processing) CLUP shall consist of the following: A minimum fifty feet of undisturbed natural vegetation and a minimum twelve-foot earthen berm with a minimum 2/1 slope. The buffer area for a Class 2 (non-processing) CLUP shall consist of one or any combination of the following: Fifty feet of undisturbed natural vegetation, a minimum six-foot fence, a minimum six-foot earthen berm with a minimum 2/1 slope.
-

- 2. Add a new paragraph to 21.29.050 (A)(2) Buffer Area—maybe call it (b) and move remainder of letters down one?**

- b. KPB's Geographic Information System (GIS) technology will be utilized in the design of the buffer area when differing elevations exist between the proposed site and neighboring property owners. Using this technology, line of sight profile drawings from the uppermost inhabitable level of existing properties located within one thousand feet of the proposed parcel boundary shall be utilized in the determination of sufficiency of the buffer area.
-

3. In the revised proposal under Buffer Area (c) the word “**not**” is omitted from what the wording was in the current (**see 21.29.050 (A)(2) in original**) ordinance. This is a huge takeaway from borough residents and I believe that when it was discussed at the material site group they decided to keep the word “**not**”. As worded, the proposed revision would include any easements between a property owner and a gravel pit as part of the Buffer Area.

21.29.050 (A)(2)(c) Should be amended to read:

c. Where an easement exists, a buffer shall **not** overlap the easement, unless otherwise conditioned by the planning commission or planning director.

1. Three Amendments to create two Categories of CLUPs.

21.29.020 (B) Conditional Land Use Permit.

B. 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.~~] **CLUPs will be categorized at the time of application as: Class 1 (Processing), or Class 2 (Non-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 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 21.29 are controlling.

2. 21.29.050 (A) Permit Conditions.

A. The following mandatory conditions apply to counter permits, [~~CLUPs~~] **Class 1 CLUPs, and Class 2 CLUPs** issued for sand, gravel, or material sites:

3. 21.29.050 (A)(3) Permit Conditions

3. Processing. In the case of a [~~CLUP~~] **Class 1 (processing) CLUP**, any equipment which conditions or processes material must be operated at least [~~300~~] **500** feet from the parcel boundaries. At its discretion, the planning commission may waive the [~~300~~] **500** foot processing distance requirement, or allow a lesser distance in consideration of and in accordance with existing uses of adjacent property at the time.

Amendment to Standards

21.29.040 (A)(1) Standards for sand, gravel, or material sites.

1. Protects against the lowering and/or contamination of water sources serving other properties;

Add new paragraphs (c) and (d) to this section:

21.29.050 (A)(6) Waterbodies.

c. No material site extraction shall be allowed within the boundaries of a tsunami inundation area. These areas are mapped by the Alaska DNR, in partnership with the Alaska Earthquake Center and the Alaska Division of Homeland Security and Emergency Management.

d. When material sites are proposed near waterways and estuaries which support salmon rearing habitat existing ground water flow information shall be utilized to determine if standards will be met.

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 well and the proposed gravel pit.. Before it was voted on, that was changed to 100 ft. At that time Committee meetings were behind closed doors and discussion at the meetings very limited. (During my tenure we changed that.)

So, during my tenure we took another look at it and rewrote it, again to the utter chagrin of the businesses. At that time, as you are now, we came up against a subdivision that faces 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.

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

Broyles, Randi

From: Blankenship, Johni
Sent: Wednesday, January 26, 2022 11:54 AM
To: Broyles, Randi
Subject: FW: <EXTERNAL-SENDER>Fwd: KPB Ordinance 2021 - 41

From: Larry Smith <dlconst.smith@gmail.com>
Sent: Wednesday, January 26, 2022 11:52 AM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Fwd: KPB Ordinance 2021 - 41

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.

Please include this in the Assembly packet for the next meeting wherein KPB Ordinance 2021-41 is considered. Thank you.

----- Forwarded message -----

From: **Larry Smith** <dlconst.smith@gmail.com>
Date: Wed, Jan 26, 2022 at 11:47 AM
Subject: KPB Ordinance 2021 - 41
To: <bjohnson@kpb.us>, <bhibbert@kpb.us>, <rderkevorkian@kpb.us>, <bjorkman@kpb.us>, <tysoncox@kpb.us>, <belam@kpb.us>, <cecklund@kpb.us>, <lchesley@kpb.us>, <mtupper@kpb.us>, Pierce, Charlie <cpierce@kpb.us>, Kpac Association <kpacassociation@yahoo.com>

Ladies and Gentlemen,

I attended the KPB Assembly meeting on January 18, 2022 and testified against this Ordinance. I do not know how many emails you received in support of this Ordinance but seem to recall that everyone (at least a majority) who testified in person that evening testified against the Ordinance. And yet at the conclusion of the public testimony the Assembly introduced the Ordinance and offered a number of amendments; some of which were adopted and others rejected.

Therefore I wonder who it is that you are representing? Certainly not the public or your constituents since in my view they requested that you vote down the Ordinance. Are you representing the KPB Planning Commission or the KPB Administration? Why are you moving forward with 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

Dibble Creek Rock Ltd.

January 20, 2022

Kenai Peninsula Borough
Borough Assembly
144 N. Binkley Street
Soldotna, AK 99669

RE: Review of Ordinance 2021-41

Dibble Creek Rock Ltd. (DCR) does not support the current proposed changes regarding KPB Ordinance 2021-41. We simply feel that the Borough needs to put more research into logical, effective changes to the ordinance that make sense. Not only economic sense, but changes that are geared towards efficiency, usefulness, and overall production for the operators and to stop acting upon the skewed emotions of landowners.

The proposed changes to the ordinance currently read very distorted. It is very misguided and will ultimately result in more complaints to the Borough, which is why the code was written in the first place, to reduce complaints. Wording within the code should be heavily modified, eliminating wording or phrases that have nothing to do with working within a material site or phrases that relay unattainable results. Wording such as "other uses, protects against, minimizes, vicinity" are just a few examples that are vague and subject to interpretation. Possibly more appropriate wording could be considered. It also appears there is potential for unnecessary overlap in regulation between the Borough and other State and Federal agencies.

As one of the larger gravel processors on the Kenai Peninsula, we are highly disappointed that no one from the KPB Material Site Work Group reached out to Dibble Creek Rock Ltd. in the past two years for our input or suggestions for modifications to the ordinance. What operators did they reach out to for input?

The growing need for **quality**, processed gravel throughout the Kenai Peninsula will become increasingly difficult to attain. Product specifications need to be met to ensure that aggregates of superior quality are produced for not only maintaining roads, but for home and building foundations on less than favorable land conditions. Quality aggregates are a big part of the ready-mix concrete and asphalt manufacturing process. Products that prove to be crucial components in the road building and general construction industry. Challenging demands put forth in the new ordinance would drive the cost of doing business through the roof. In turn, dramatically increasing the price of materials to the end user (State, Feds, Borough, Homeowners).

We do hope that our thoughts, along with others on the Kenai Peninsula are genuinely taken into consideration.

Respectfully,

Cap Shafer
President

Quality Washed Rock Products • Ready Mix Concrete

34481 North Fork Road • Anchor Point, AK 99556 • 907.235.7126 - Phone • 907.235.0682 - Fax



To the Kenai Peninsula Borough Assembly,

The Kenai Peninsula Aggregate and Contractors Association has received over a hundred phone calls from our members and the public in regard to the actions of the assembly at the meeting conducted on the 18th of January, 2022. All these calls asked us two things. What is going on?!? Why did the assembly go against the will of the people? Specifically, callers are concerned about the Assembly's decision to do so.

Several of our members have asked the Association to write a letter as a plea of communication and education, asking members of the assembly to contact them before any further amendments are considered. Most of our members and the public are concerned about what damage to the industry, economy, property rights, and equal protection any further amendments will do without industry input.

Many calls received have a consensus that further amendments without education of the industry will result in negative impacts. These impacts have varied from the closure of existing material sites, closure to the public, doubling or tripling of material costs, or significant increase in the cost of material. This will unnecessarily impact the economy of the Kenai peninsula and quite possibly affect the safety of the residents in many ways. Many worried that if the cost of sand increases dramatically, roads will receive less maintenance, causing potentially fatal accidents. That is just the most obvious concern, as we are in the season of slick roads and the residents have already experienced cutbacks in road maintenance during the Walker administration at the state level. We can see how voters responded when Government made decisions that affected basic needs and took advice from special interests. One might note the current situation and reaction of the trucking industry in Canada, due to adverse regulation.

As a plea for communication and education, these members of our association below have asked their names and phone numbers be included. Thank you for your full consideration in this matter.

Ed Martin III, President, KPACA 252-2554.

Cap Shafer, Dibble Creek Rock, 399-4550

Larry Smith, D&L Construction, 398-4284

Robert Peterkin, Northwind Properties LLC, 252-7482

Dave Yragui, 252-1891

Dan Michel, Valley View Gravel, 252-1833

Jake Denbrock, SND Enterprises, 252-0156

Glen Martin, Great Northern Construction and Management, 252-5326



Lou Oliva, L&J Enterprises, 252-1300

Marty Oberg, Peninsula Construction, 398-6331

Matt Letzring, Letzring Inc., 398-5263

Mark Rozak, Steam on Wheels, 252-2335

Troy Jones, East Road Services Inc., 235-6574, 399-1297

Terry Best, 398-1268

Chad Hammond, Hammond Trucking, 398-6715

Scott Foster, Foster Construction, 394-1977

Dennis Merkes, Merkes Builders, 398-3369

Richard Encelewski, Ninilchik Native Assoc., 348-0884, 567-3866

Cole Peterson, Metco Alaska llc, 362-7142

Randy Chumley, A&L Construction, 398-3048

Sean McKeown, Knik Construction, 907-545-3637

From: K, E, & E Martin <keeconstructionllc@yahoo.com>
Sent: Sunday, January 30, 2022 12:14 PM
To: Pierce, Charlie <CPierce@kpb.us>; Planning Dept, <planning@kpb.us>; Kelley, Sean <skelley@kpb.us>; Blankenship, Johni <JBlankenship@kpb.us>
Subject: Fw: <EXTERNAL-SENDER>The Doctrine of Estoppel

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KPB Assembly & Borough Mayor,
 Please consider a no vote on 2021-41 or any substitution.

Go back to square one, with a work group made up of 4 individuals from the Industry & 4 Concerned Property Owners only. Allow them to find consensus on the issues that the Government has powers to enforce **& only those powers (ie: ZONING or not under a second class Borough ?)** . Anything beyond lawful KPB Code & Enforcement powers needs to be resolved in Civil Court. The KPB Administration shouldn't become referee for conflicts ahead or after citizen civil controversies regarding Private Property Rights. .

The government should provide assistance (information) of Law, Jurisdiction & by what means to the KPB can Enforce Code! We feel this is the only equitable solution to this controversy now appearing currently before the Administration, Assembly & it's citizens.

As far as the requested "REMAND " on the civil cases , stay out of it entirely regardless of any demand of the Superior Court order(s). The only response should be "we did our job now do yours & we advise consideration of applying the Doctrine of ESTOPPEL.

It appears to us the time to defend the permits the KPB has issued has maybe long past! You failed to honestly do any defense for the Permit Holders. Why is that ? Being the party who issued the permit(s), you should defend it/them!

No Government should be the catalyst for controversy! Please consider our views.
 Ed & Kathleen Martin.

KEE Construction, LLC

January 6, 2022

Mr. Ed Martin III
President
Kenai Peninsula Aggregate and Contractors Association
via email: Kpac Association [kpacassociation@yahoo.com]

Re: Comments on KPB proposed material site ordinance amendments

Dear Mr. Martin:

You have requested that I review the recently proposed Kenai Peninsula Borough material site ordinance amendments introduced December 7, 2021, by the Mayor along with your suggested revisions to the amendments and provide comments. You and I have also discussed the process leading up to these proposed amendments. My comments are provided pro bono as a courtesy to your organization, as well as to the Kenai Peninsula Borough and all residents and businesses interested in this topic.

I do not have any current clients or projects in the Borough that I would consider a conflict of interest, however I do have more than 39 years of experience performing hydrogeologic work in Alaska with some of it on the Kenai Peninsula, as well as relevant experience being involved in the regulation and management of complex resource development issues from both government and private sector perspectives.

My comments are grouped into two areas: 1) the process of developing these amendments; and 2) technical considerations regarding gravel pits and groundwater resources.

Process

The draft ordinance amendments state that:

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;

From our discussion, it is obvious that the material site work group did not operate on a level playing field, but rather produced its findings through majority vote. In my opinion, this is a fatal flaw of the process that resulted in the current proposals.

As background, I have been involved in two work groups regarding very complex and controversial topics that were highly successful as a result of operating on a level playing field. By this I mean that all decisions, large and small, were made by consensus, not majority rule.

In the 1980s, there was considerable concern over potential and actual groundwater and water well contamination issues on the Kenai Peninsula related to the oil and gas industry. The result was that I, as an employee of the Alaska Division of Geological and Geophysical Surveys, co-

5701 PENNY CIRCLE, ANCHORAGE, AK, 99516

jamunter@arctic.net

PHONE (907) 345-0165; FAX (907) 348-8592

chaired the Kenai Peninsula Groundwater Task Force. This task force obtained considerable funding from the oil and gas industry that was operating on the peninsula at the time to conduct groundwater studies to better understand groundwater resources and disposal sites such as the Sterling Special Waste Management Site. The condition placed on the task force by industry representatives in order to participate and provide funding was that of a "level playing field". While sometimes it took quite a bit of time to achieve consensus, the results were durable and not very controversial.

More recently, the Alaska Department of Environmental Conservation initiated a statewide effort to regulate the drilling of single-family domestic wells. A Stakeholders Working Group (SWG) was convened to explore the issues, and again, all work was conducted by consensus. The group was hugely successful in developing a set of Best Management Practices for drilling private single-family wells, in developing another document for properly decommissioning wells and in creating a new website with numerous resources for well owners:
<https://dec.alaska.gov/eh/dw/dwp/private-wells/>.

I bring these examples to your attention because, in reviewing the proposed amendments and your comments, it is apparent that these proposed amendments are complex and controversial, often interrelate to one another, and would benefit greatly from more work by a working group operating collaboratively by consensus prior to being considered for adoption.

It is worth noting that in our society ever-tightening environmental regulations are typically a one-way street. The long-term harm from over-regulating resource extraction is increasing costs and increasing scarcity of the resource on the open market. Sand and gravel resources are fundamentally important to the orderly economic development of the Kenai Peninsula Borough, are not highly transportable from other locations, and are dependent on time-limited extraction activities at most sites as a result of resource depletion. In south-central Alaska, there are many examples of reclaimed former gravel pits (some with ponds) that are important assets for long-term community development and wildlife.

A working group operating by consensus should be afforded whatever time it takes to achieve results. They should self-organize, with Chairs or Co-Chairs selected on the basis of impartial administration of the group. A potentially long timeframe should be considered for this important work because the KPB currently has a functional ordinance governing gravel resource extraction to serve in the interim. While many would likely consider the existing ordinances imperfect, it seems that it is far more important to get revisions right, rather than to get them fast.

In a nutshell, the existing proposed amendments should be scrapped and the whole process should start over with a level playing field amongst all stakeholders who agree to work in a collaborative and productive atmosphere towards improvements to the existing ordinances.

Technical considerations

There are many legitimate issues associated with gravel pits such as noise, dust, traffic, visual impacts, etc. which I will not address. One of the key concerns that commonly arises with gravel pits is impacts to groundwater or surface water resources. This is important, because while land

and gravel resources are typically privately owned, water resources in Alaska are reserved to the people for common use and responsibility for their management is delegated to agencies. Also, water has the uncanny habit of moving from place to place. So what happens to water at a gravel pit does not stay at the gravel pit.

The existing ordinance allows excavation into the water table under certain conditions. Proposed revisions by Kpac suggest loosening those restrictions and allowing more general mining of sand and gravel to a depth of up to 15 feet below the water table.

There is not a clear-cut answer to how mining of aggregate resources below the water table should be regulated. As described above, this should be subjected to deliberation by a stakeholder working group operating under consensus rules. Below, however are some considerations.

First, mining resources below the water table is not inherently "bad" or "not permissible" by agencies. The recently completed and approved Environmental Impact Statement for the proposed Donlin gold mine in southwest Alaska, for example, proposes digging an open pit about two miles long, one mile wide and more than 1/4 mile deep that would fill almost to the brim after mining to form a pit lake. With mining below the water table, however, precautions are warranted to protect nearby users of groundwater and potentially-affected surface water resources, wetlands and wildlife.

Throughout south-central Alaska, and notably in the Anchor Point area, numerous old gravel pits are now flooded to form small lakes or ponds. Some of these features provide wildlife habitat and potential visual and recreational enhancement for neighboring homes and businesses.

During gravel pit operations, one of the largest concerns about groundwater contamination comes from accidental fuel spills. All gravel pits should have rigorous and robust measures in place to prevent such spills and some degree of capacity to clean up spills if they occur.

The current ordinance calls for a two-foot vertical separation between the bottom of a pit and the seasonal high water table under most conditions. The rationale for this separation is not clear. In the event of a sizeable fuel spill, such a buffer would not be very useful in preventing fuel from reaching the water table. In a gravel pit, fuel would tend to infiltrate vertically downward from the spill point and "pancake" out on the surface of the water table two feet or more below the ground. The pore-space storage that would capture spilled fuel before reaching the water table could be as low as about 10 gallons. Once a spill encountered the water table, dissolved fuel components would begin to migrate in a downgradient direction along with the groundwater. To be most effective, cleanup should be rapid and may entail excavating a large quantity of contaminated sand and gravel. In contrast, if a fuel spill reached a gravel pit pond, the resulting sheen and/or floating product would likely be immediately obvious. Sorbents and/or booms stored on-site could be rapidly deployed to contain and mop up the bulk of the contamination.

Some perspective on regulatory requirements for two- or four-foot separation to the water table may be useful. It is a common regulatory requirement that the distance between the bottom of a septic system leachfield and the top of the seasonal high water table must be at least four feet.

The reason for this requirement is that wastewater percolating downward from leachfields needs to receive aerobic (i.e. oxygenated) subsurface treatment in the unsaturated zone between the bottom of the leachfield and the low-oxygen saturated sediments below the water table in order to treat and removed certain compounds and microorganisms from the wastewater. Such logic does not apply to gravel pits where no wastewater treatment occurs.

Part of Kpac's proposed revision to ordinances is that, in order to make wider and taller surrounding berms (10 ft high rather than 6 feet high) and simultaneously preserve the economic viability of extracting aggregate resources, excavation below the water table should be considered along with appropriate protective measures.

A consequence of extracting sand and gravel below the water table is that the total footprint of gravel pits in any given area may be reduced. This could occur because if there is a fixed market demand for aggregate the aggregate has to come from somewhere. If pits were able to extract an additional 17 vertical feet (two feet above and 15 feet below the water table) of aggregate resources from part of their operation, then it follows that fewer net acres of land surface would need to be disturbed to meet the market demand.

One useful protective measure for water table excavation would be the prohibited distance to surrounding water wells or even potential water well locations on nearby undeveloped property. A gravel pit should not "shadow" a potential well location on a nearby property such that the property is undevelopable using a well and a septic system. A large public water-supply well, for example, must be sited more than 200 feet from certain potential sources of contamination, and that distance should be considered as suitably applicable for private well distances from gravel pit ponds, as well.

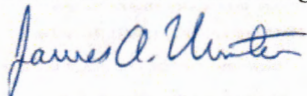
Another potential contaminant source from excavating below the water table is fine silt or clay that could become entrained in groundwater and travel some distance towards a well. Again, a protective distance to surrounding wells, especially if groundwater flow directions can be determined, would likely be the most practical way of reducing risk from entrained silt or clay in groundwater.

The concept of requiring the bottom of an excavation to be 15 feet above nearby private well intake openings is only marginally protective. This is because, if a contaminant plume should develop in groundwater, lateral and vertical dispersion (i.e. spreading) of the plume could readily exceed this amount. Also, the construction details of nearby wells are not always known.

Should you have any questions, please call me at 907-345-0165 or 907-727-6310 (cell).

Sincerely,

J. A. Munter Consulting, Inc.



James A. Munter, CPG

Certified Ground Water Professional No. 119481

Alaska Licensed Professional Geologist No. 568

Comments on KPB materials site revisions

Page 4 of 4

January 6, 2022

Turner, Michele

Subject: FW: <EXTERNAL-SENDER>Fw: DEC Drinking Water regulations related to gravel extraction
Attachments: image001.png

From: Kpac Association <kpacassociation@yahoo.com>
Sent: Thursday, January 20, 2022 2:08 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Fw: DEC Drinking Water regulations related to gravel extraction

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Hi Johni,
Please forward to the assembly.
Ed Martin III
President
KPACA
252-2554

----- Forwarded Message -----

From: Palmer, Charley (DEC) <charley.palmer@alaska.gov>
To: kpacassociation@yahoo.com <kpacassociation@yahoo.com>
Cc: Rypkema, James (DEC) <james.rypkema@alaska.gov>; Miller, Christopher C (DEC) <chris.miller@alaska.gov>
Sent: Monday, January 10, 2022, 10:06:57 AM GMT-9
Subject: DEC Drinking Water regulations related to gravel extraction

Hi Ed Martin,

As mentioned before, we have little authority with respect to land use activities near a public water system in our current regulations, 18 AAC 80. For that reason, we did work with the Division of Water to update a Best Management Practices document found at <https://dec.alaska.gov/water/wastewater/stormwater/gravel/>, to include consideration of nearby public water systems. I've cc'd Jim Rypkema in case he has anything to add regarding the BMP document. I've also cc'd my supervisor, Chris Miller, just so he's aware of our communication.

As requested, below are relevant regulations that could apply:

18 AAC 80.015. Well protection, source water protection, and well decommissioning.

(a) A person may not

(1) cause pollution or contamination to enter a public water system; or

(2) create or maintain a condition that has a significant potential to cause or allow the pollution or contamination of a public water system.

(d) A person who owns or is responsible for a well, hole, or excavation into a water supply source or potential water supply source for a public water system shall use appropriate methods as follows to protect the water supply source as required under (a) of this section:

(1) if the well, hole, or excavation is either active or temporarily inactive, the person shall maintain the well, hole, or excavation using appropriate methods, including methods set out in (b) of this section;

(2) if the well, hole, or excavation is permanently inactive or abandoned, the person shall protect, seal, or fill the well, hole, or excavation using appropriate methods approved by the department as set out in (e) of this section;

(3) in this subsection “wells, holes, or excavations” include

(A) a well that may or may not be used for potable water;

(B) a hole drilled, augured, or jetted for the purpose of subsurface exploration or sampling;

(C) a cathodic protection well; or

(D) another form of excavation that might contaminate a public water supply source.

18 AAC 80.020. Minimum separation distances.

(a) A person may not construct, install, maintain, or operate a public water system unless the minimum separation distances in Table A, in this subsection, are maintained between a potential source of contamination and a drinking water source for the public water system.

TABLE A.
Minimum Separation Distances^a Between Drinking
Water Sources and Potential Sources of Contamination
(Measured horizontally in feet)

Type of Drinking Water System	
Potential Sources of Contamination	Community Water Systems, Non-transient Non-Community Water Systems, and Transient Non-Community Water Systems
Wastewater treatment works, ^b wastewater disposal system, ^b pit privy, ^b sewer manhole, lift station, cleanout	200
Community sewer line, holding tank, ^b other potential sources of contamination ^c	200
Private sewer line, petroleum lines and storage tanks, ^d drinking water treatment waste ^e	100

Notes to Table A:

^a These minimum distances will be expanded, or additional monitoring will be required under 18 AAC 80.020(b) and (e)(2).

^b Distance to a drinking water source is measured from the nearest edge of the drinking water source to the nearest edge of the potential source of contamination.

^c Other potential sources of contamination include [but are not limited to] sanitary landfills, domestic animal and agricultural waste, and industrial discharge lines.

^d The minimum separation distances for petroleum storage tanks do not apply to tanks that contain propane, or to above-ground storage tanks or drums that, in the aggregate, have a storage capacity of less than 500 gallons of petroleum products, and that store only petroleum products necessary for the operation and maintenance of pumps, power generation systems, or heating systems associated with a potable water source.

^e Drinking water treatment wastes include the backwash water from filters and water softeners, and the reject water from reverse osmosis units.

(b) The department will require a greater separation distance than that required by Table A in (a) of this section if the department determines that additional distance is necessary to protect surface water, groundwater, or a drinking water source. The department will make this decision after considering soil classifications, groundwater conditions, surface topography, geology, past experience, or other factors relevant to protection of surface water, groundwater, or drinking water.

Regards,



Charley Palmer

Hydrologist 3

FAA Certified sUAS (drone) Pilot

DEC-EH | Drinking Water Program

Drinking Water Source Protection

PHONE 907-269-0292

charley.palmer@alaska.gov

555 CORDOVA STREET

ANCHORAGE, AK 99501

Turner, Michele

Subject: FW: <EXTERNAL-SENDER>Fw: Gravel pits with waterbodies

From: Kpac Association <kpacassociation@yahoo.com>
Sent: Thursday, January 20, 2022 2:11 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Fw: Gravel pits with waterbodies

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Hi Johni,
Please forward to the assembly as comment on 2021-41
Ed Martin III
President
KPACA
252-2554

----- Forwarded Message -----

From: Peterson, Ryan E (DEC) <ryan.peterson@alaska.gov>
To: Kpac Association <kpacassociation@yahoo.com>
Cc: Wilfong, David L (DEC) <david.wilfong@alaska.gov>; Bear, Tonya (DEC) <tonya.bear@alaska.gov>
Sent: Friday, January 7, 2022, 01:34:23 PM GMT-9
Subject: RE: Gravel pits with waterbodies

Good Afternoon Ed,

Thank you so much for the inquiry. In regards to your question of what applicable regulations of the wastewater disposal regulations 18 AAC 72 could apply during the development of a materials site resulting in the creation of surface water and/or steep slopes, the sections that come to mind are:

18 AAC 72.020(b) which goes over separation distances from a wastewater disposal system to surface water sources; and

18 AAC 72.035(9) which goes over separation distances from a conventional onsite system to a ground surface slope greater than 25 percent with a drop in the surface height greater than 10 feet.

These will cover most private residential systems. If the nearby property or development is a commercial facility, additional restrictions based on site specific considerations may apply.

Please let me know or the Soldotna wastewater review engineer Dave Wilfong, 262-3405, david.wilfong@alaska.gov, know if you have any additional questions. Thank you!

Ryan Peterson
Dept of Environmental Conservation / Division of Water
Engineering Support and Plan Review Section
43335 Kalifornsky Beach Road, STE 11 Soldotna AK 99669
ryan.peterson@alaska.gov
Phone: 907-262-3402 Fax: 907-262-2294
septic.alaska.gov

-----Original Message-----

From: Kpac Association <kpacassociation@yahoo.com>

Sent: Friday, January 7, 2022 7:24 AM
To: Peterson, Ryan E (DEC) <ryan.peterson@alaska.gov>
Subject: Gravel pits with waterbodies

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Hi Ryan. Per our conversation yesterday, could you write me back something referring to the DEC waste water divisions regulations regarding waterbodies and slopes that could occur in the development of a material site? Thanks, Ed.

Sent from my iPhone

02021-41

Turner, Michele

Subject: FW: <EXTERNAL-SENDER>Fw: [External Email]Info on gravel pit habitat
Attachments: Gravel Pit Ponds as Habitat Enhancement for Juvenile Coho Salmon pnw_gtr212.pdf;
Guidelines for Gravel-Pit Wetland Creation 0653-Prange.pdf; Nancy St Article.pdf; Nancy
St As-Built-lowres (002).pdf

From: Kpac Association <kpacassociation@yahoo.com>
Sent: Thursday, January 20, 2022 2:03 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Fw: [External Email]Info on gravel pit habitat

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Hi Johni,

Could you send this to the assembly for comment on 2021-41? It is from the forest service about some amazing uses they have done with old gravel pits that have been excavated into the water table. Reclamation benefits and options.

Ed Martin III
President
KPACA
252-2554

----- Forwarded Message -----

From: Cross, Adam -FS <adam.cross@usda.gov>
To: Kpac Association <kpacassociation@yahoo.com>
Sent: Thursday, January 13, 2022, 02:40:43 PM GMT-9
Subject: RE: [External Email]Info on gravel pit habitat

Good Afternoon Ed,

I wanted to share some of the literature my co-workers located. Some of it is a bit older but still relevant. Unfortunately, the FS has not published much if anything about the work of transitioning gravel ponds into salmon habitat or even recreational areas in Portage Valley. The area is a great "show me" example for folks who may be interested.

I hope the attached will be helpful.

Best Regards,
Adam

Adam Cross
KPZ Aquatics Program Manager
Forest Service
Chugach National Forest, Kenai Peninsula Zone
p: 907-288-7715
f: 907-288-5111
adam.cross@usda.gov
33599 Ranger Station Spur
Seward, AK 99664
www.fs.fed.us

Caring for the land and serving people

-----Original Message-----

From: Kpac Association <kpacassociation@yahoo.com>
Sent: Thursday, January 6, 2022 10:52 AM
To: Cross, Adam -FS <adam.cross@usda.gov>
Subject: [External Email]Info on gravel pit habitat

[External Email]

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Please send any concerns or suspicious messages to: Spam.Abuse@usda.gov

Great conversation with you today! Any info you have on any pits converted to habitat would be appreciated. A simple letter explaining your success in that area would be excellent to start a discussion in the presentation I'm producing for the KPB. Thank you so much! Ed Martin. 252-2554.

Sent from my iPhone

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United States
Department of
Agriculture

Forest Service

Pacific Northwest
Research Station

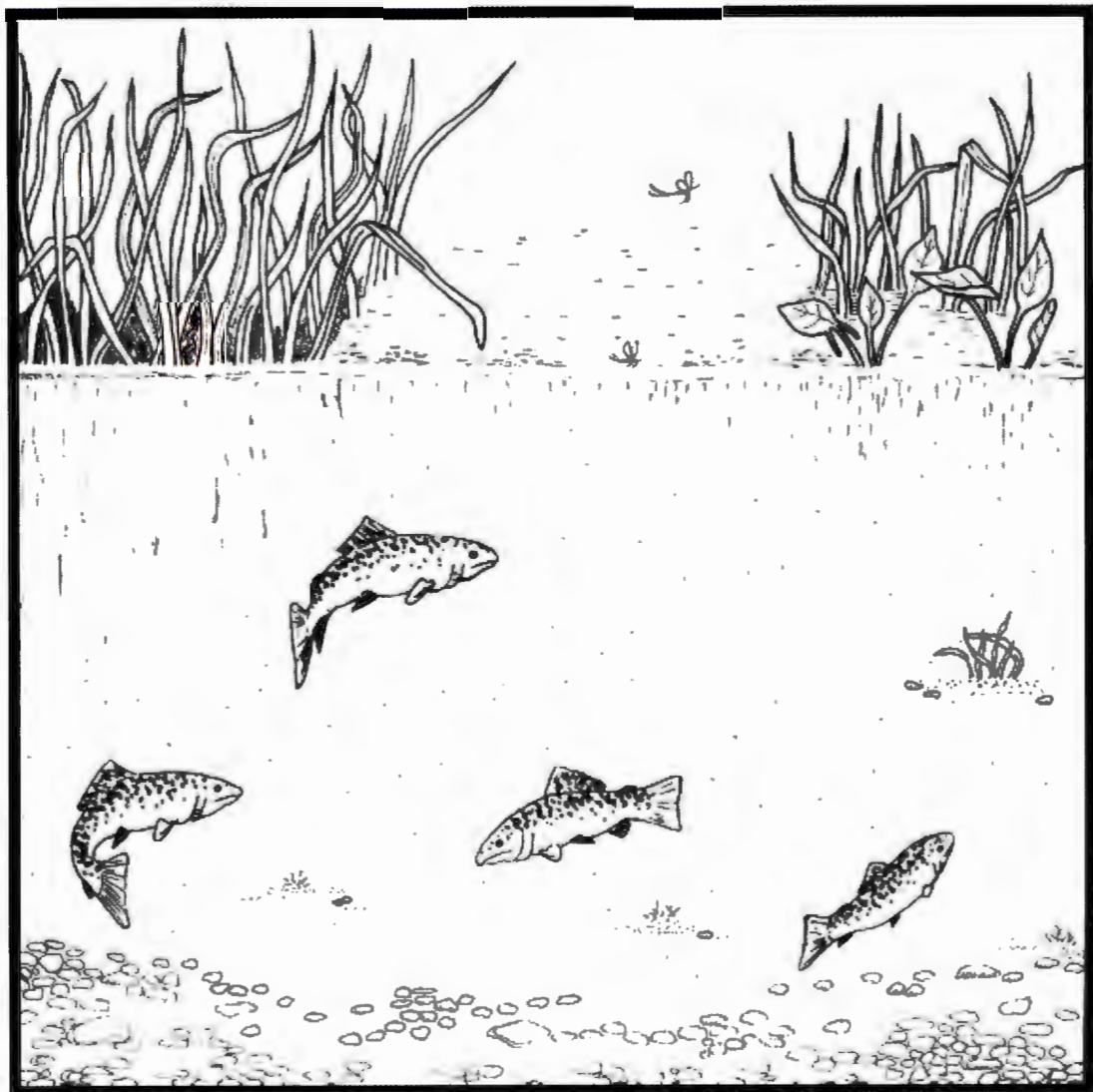
General Technical
Report

PNW-GTR-212



Gravel Pit Ponds as Habitat Enhancement for Juvenile Coho Salmon

Mason D. Bryant



Author

MASON D. BRYANT is a research fishery biologist, Forestry Science Laboratory, P.O. Box 20909, Juneau, Alaska 99802.

Abstract

Bryant, Mason D. 1988. Gravel pit ponds as habitat enhancement for juvenile coho salmon. General Technical Report PNW-GTR-212. Portland, OR: U.S. Department of Agriculture, Forest Service, Pacific Northwest Research Station. 10 p.

Gravel pits built during road construction in the early 1970's near Yakutat, Alaska, filled with water and were connected to nearby rivers to allow juvenile salmonids to enter. Seasonal changes in population size, length and weight, and length frequencies of the coho salmon population were evaluated over a 2-year period. Numbers of coho salmon fluctuated, but two of the ponds supported high populations, more than 2,000 fish, throughout the study. These ponds appeared to support coho salmon throughout the winter. The range of physical measurements of the ponds did not seem to account for differences in numbers of salmon, but low concentrations of dissolved oxygen were detected in all ponds near the bottom. Aquatic vegetation, water exchange rate, and access may have affected the number of coho salmon in the less-productive ponds.

Keywords: Fish habitat, salmonids, stream habitat management, southeast Alaska, Alaska (southeast).

Contents

1	Introduction
1	Methods
2	Results
8	Discussion
10	Literature Cited

Introduction

Road construction and forest development are commonly associated with detrimental effects on salmonid habitat; with proper planning, however, such effects can be avoided. In this paper, I discuss a method to improve salmonid production in conjunction with road construction.

Juvenile coho salmon (*Oncorhynchus kitsuch*) are aggressive, invasive, and mobile (Allee 1974, Chapman 1962, Skeesick 1970). Sheridan¹ suggested that the gravel pits, created during road construction on the glacial outwash of the Yakutat forelands (Alaska Department of Fish and Game 1984), would be exploited by juvenile coho salmon if the ponds were connected to river systems containing coho salmon. Several gravel pits that had filled with water were connected by artificial channels to nearby rivers during the 1970's. Coho salmon fry were observed in the ponds, but no systematic effort was undertaken to estimate the number of fish in the ponds or to evaluate their effectiveness as rearing habitat.

The purpose of this study was to determine if these ponds were suitable rearing habitat for juvenile coho salmon. Numbers of juvenile coho in four ponds were estimated over several seasons. Size and ages were determined. Selected chemical and physical measurements were taken on the ponds to identify factors that could account for differences in salmon populations.

Although ponds are not generally associated with coho salmon habitat, beaver ponds and riverine ponds have been identified as productive coho habitat in Alaska and in Washington in recent years² (Bryant 1984, Peterson 1982). Russell and Schramek (1984) found about 2,500 coho salmon fry and 500 fingerlings in a gravel pit associated with a beaver pond during the summer of 1977. They did not follow the populations through the winter, however. Both Peterson (1982) and Russell and Schramek (1984) reported seasonal migrations to and from the ponds. Although most of these studies were on natural ponds, their results indicate that ponds created by gravel borrow pits can support juvenile coho salmon; such ponds may be an inexpensive method to increase coho salmon production.

Methods

Four ponds-Nine-Mile, Green, Twenty-Two-Mile, and Beanbelly-were sampled monthly from July through October 1983 and during spring or early summer and autumn in 1984 and 1985. Minnow traps (mesh size = 6.3 mm) were baited with salmon eggs and distributed along the edge of the ponds, usually within a few meters of the bank, 1 to 2 m deep. A few were placed in the middle of the ponds. Between 26 and 30 traps were sufficient to sample each of the ponds. In 1984, Twenty-Two-Mile Pond was not sampled because of low coho salmon populations. Green Pond was not sampled in 1985 for the same reason. Traps were allowed to fish for 1 hour, long enough to capture a sufficient sample. Longer periods occasionally resulted in high mortalities. Mortalities incurred during handling were identified and removed from the experiment.

All fish were identified and measured (total length). Scales and weights were taken from a subsample of the salmonid population. Salmonids were marked by punching a hole in the caudal fin. In the fall of 1984, salmonids were marked by freeze branding (Bryant and Walkotten 1980).

¹ Sheridan, W.L. 1970. Coho salmon habitat improvement-on glacial outwash plains. U.S. Department of Agriculture, Forest Service, Region 10. Unpublished.

² Sanders, G.H. Movement and territoriality in juvenile coho salmon (*Oncorhynchus kisutch*) in a southeast Alaska pond. Alaska Department of Fish and Game, Juneau, AK. Unpublished report.

Population size was estimated either with the Schnabel multiple mark and recapture method or the Bailey modification of the Peterson estimate (Ricker 1975). The Schnabel method was used in all the 1983 samples. The method varied in later samples because of limited sampling time. The multiple mark and recapture experiments were conducted over a period of 5 days or less. Emigration and immigration were negligible during the summer. During of the summer sampling periods, water levels were low and streams into and out of the ponds were either not running or had small flows. Increased rainfall in the autumn resulted in higher flows, but mark and recapture samples were done over a period of 2 or 3 days to minimize the effect of fish moving into or out of the ponds.

All four ponds were surveyed to determine surface area. Depth profiles were not made, but maximum depths were determined during secchi disk and oxygen measurements. Temperature and oxygen were measured with a YSI³ oxygen meter in 1983 and 1984. Oxygen measurements in June 1985 were made with the Alsterburg modification of the Winkler method (U.S. Environmental Protection Agency 1974).

Results

The number of coho salmon in Nine-Mile and Beanbelly Ponds increased from July to October in 1983. Each pond supported more than 3,500 coho salmon in the fall of 1983 (fig. 1). Green and Twenty-Two-Mile Ponds were not sampled after October 1983 because few fish were captured. The number of coho salmon in Green Pond declined from an estimated 2,700 in August to a point where no estimate was possible in October (fig. 1). The number of coho salmon in Twenty-Two-Mile Pond was consistently low.

³ Use of trade names is for the information and convenience of the reader. Such use does not imply endorsement by the U.S. Department of Agriculture of any product or service to the exclusion of others that may be suitable.

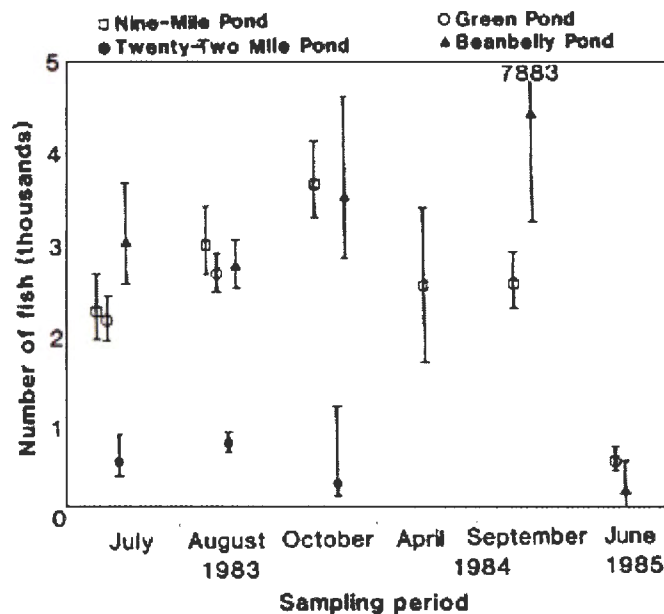


Figure 1—Population estimates of coho salmon captured in Nine-Mile, Green, Twenty-Two-Mile, and Beanbelly Ponds from 1983 to 1985.

Population estimates in Nine-Mile and Beanbelly Ponds were made October 1983, April 1984, September 1984, and June 1985 to assess overwinter use of the ponds. Beanbelly Pond was not sampled in April, 1984 because snow on the road made it inaccessible. In Nine-Mile Pond, the number of juvenile coho salmon decreased from 3,666 to 2,547 between October 1983 and April 1984. Fin punches applied in October were observed in the April sample; therefore, coho salmon overwintered in the pond, but emigration and immigration likely occurred between the sample periods. Because of heavy snow, the ponds were not sampled until the 1st week in June 1985. The low populations in both ponds in June may be attributed to smolt migration. Comparison of length frequencies in September 1984 and June 1985 in Beanbelly Pond corroborate this migration (fig. 2). In September 1984, the median length of coho salmon in Beanbelly Pond was 88 mm (total length), and more than 10 percent of the total catch was longer than 100 mm; in June 1985, the median length was 82 mm, and less than 2 percent of the total catch was longer than 100 mm.

A few coho salmon marked with freeze brands in September 1984 were recovered from both ponds in June 1985, but they numbered less than 1 percent of the total catch; therefore, overwinter survival cannot be estimated. Recovery of marked fish in June 1985 and the persistence in the ponds of coho salmon that were at least 1 year old in the spring and early summer of 1984 and 1985 indicate that the ponds are used over the winter.

Recruitment to the ponds appears to be the result of upstream migration of juvenile coho, except in Beanbelly Pond which is fed by a stream with spawnable habitat. Recruitment of fry into the ponds appears to begin in June. During May 1984, fewer than 5 percent of the coho salmon caught in Nine-Mile Pond were smaller than 62 mm (total length); by September, more than 16 percent were smaller than 62 mm (fig. 3). Between July and September, the percentage of smaller coho salmon increased slightly in Nine-Mile Pond, indicating that fry moved into the pond. In Beanbelly Pond, the percentage of smaller coho salmon decreased slightly from July to September in 1983, suggesting that smaller fish did not move into the pond and that the difference in size was the result of growth.

Significant differences occurred among the length-weight regressions computed for the coho salmon captured in the four ponds in July and August 1983 (table 1). Throughout the analysis, Nine-Mile Pond shows a consistently higher slope than the other ponds, indicating more robust fish and better growth. In September 1983, large differences appear in the slope of the regression for Twenty-Two-Mile Pond (2.2) compared to those of Nine-Mile and Beanbelly Ponds (2.8 and 2.7). The lack of significance in September 1983 may result from the smaller sample size in Twenty-Two-Mile Pond compared to that in the other two ponds.

Although depths of each pond varied, each had a relatively uniform profile tapering from a deep end to a shallow end with steep sides. The least productive pond, Twenty-Two-Mile, was also the shallowest. Green Pond and Nine-Mile Pond were similar in depth and shape (table 2); both are connected to the Situk River. Beanbelly, the largest and deepest of the four ponds, has an irregular shape and is more like a natural pond. It is fed by a perennial stream.

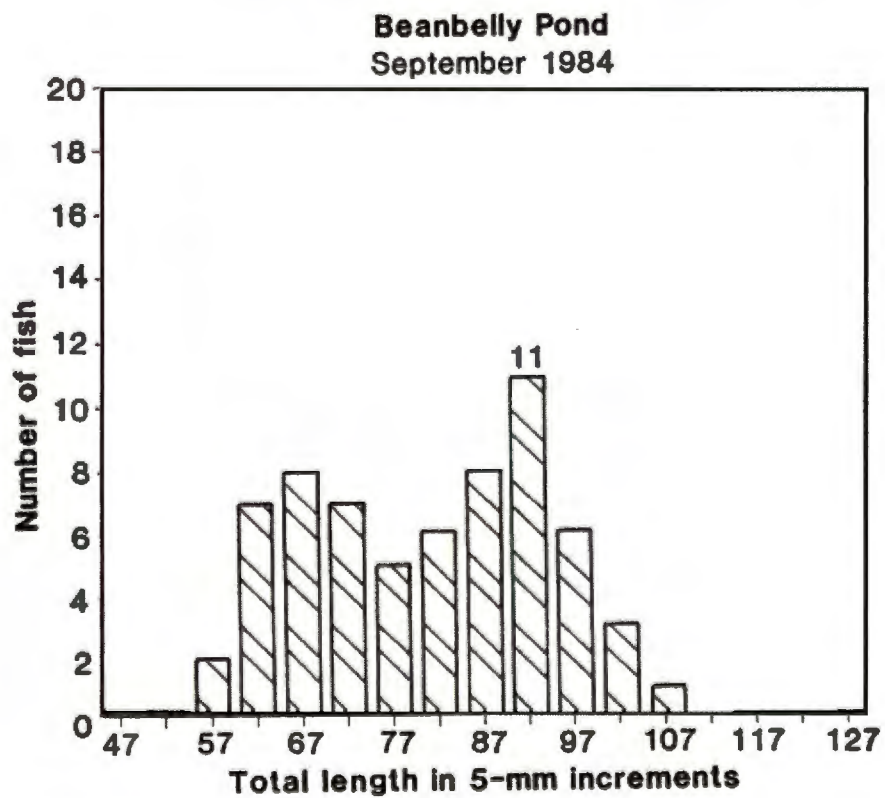
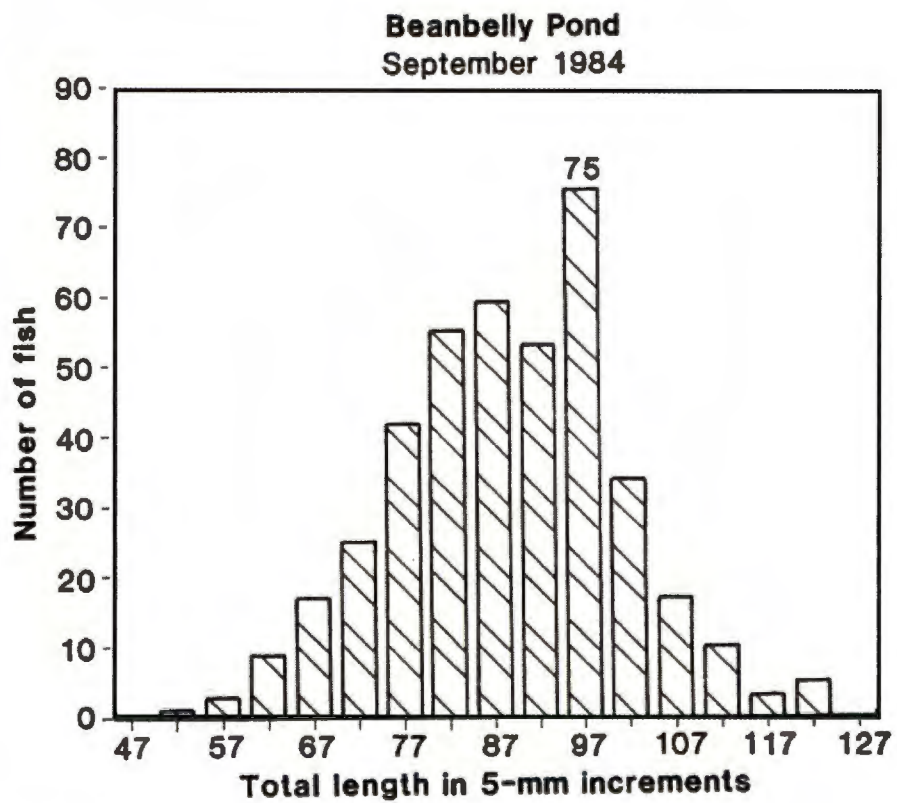


Figure 2—Length frequency distribution of coho salmon captured in Beanbelly Pond in September 1984 and June 1985.

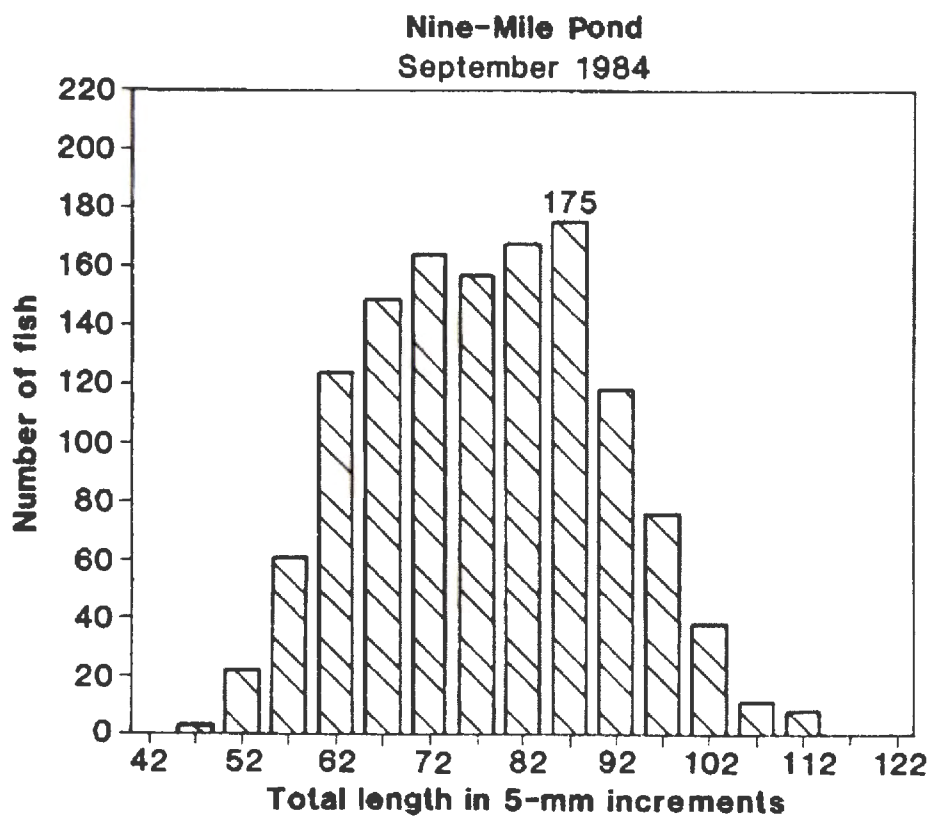
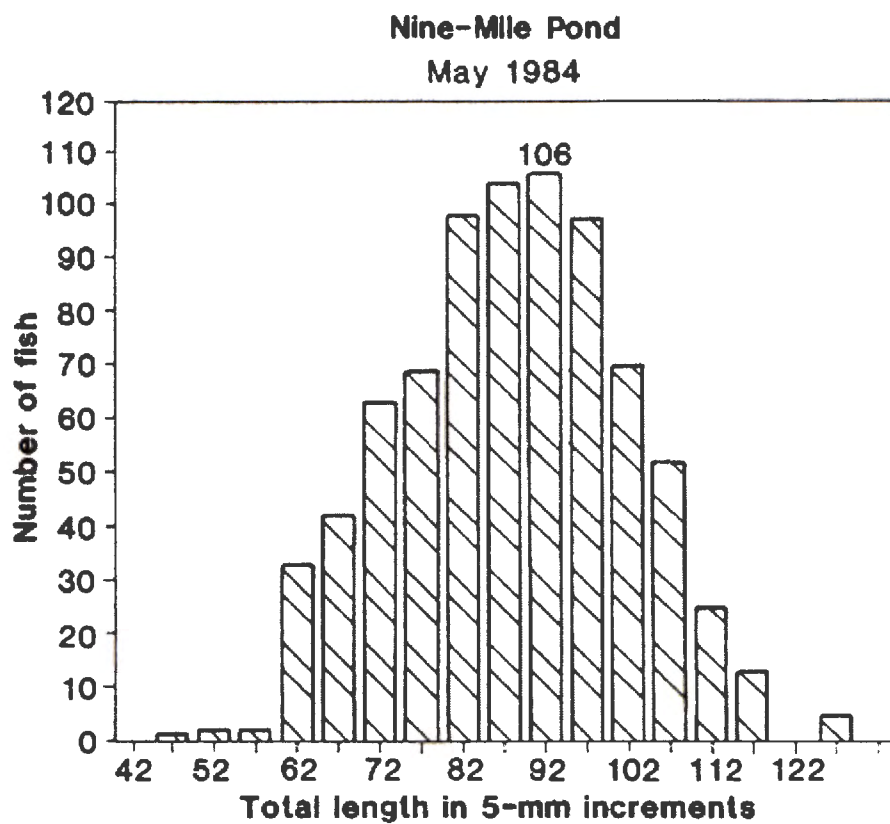


Figure 3—Length frequency distribution of coho salmon captured in Nine-Mile Pond in May and September 1984.

Table 1-Differences among ponds in length-weight regressions

Date and pond	Intercept	Slope	Significance	
	a	b	Level	Slope
July 1983:				
Nine-Mile	-5.3683	3.157		
Green	-4.0452	2.482	≤ .05	≥ .05
Twenty-Two-Mile	-4.1865	2.5663		
Beanbelly	-3.9622	2.4281		
August 1983:				
Nine-Mile	-5.1244	3.0233		
Green	-4.153	2.5325	≤ .05	≥ .05
Twenty-Two-mile	-4.844	2.867		
Beanbelly	-5.1789	3.0326		
Sept. 1983				
Nine-Mile	-4.783	2.8378		
Green	—	—		
Twenty-Two-Mile	-3.6585	2.2101	≤ .05	≥ .20 (NS)
Beanbelly	-4.5538	2.7266		
April 1984				
Nine-Mile	-5.1337	2.9813		
Green	-4.6439	2.7453	≤ .05	≥ .05
Twenty-Two-Mile	—	—		
Beanbelly	—	—		

— = no data: NS = not significant

Table 2—Yakutat gravel pit ponds morphology

	Area	Volume ^a	Maximum depth	Average depth ^b
	<u>Square meters</u>	<u>Cubic meters</u>	<u>-----Meters-----</u>	
Green	7,644	9,500	2.5	1.25
Nine-Mile	10,010	12,513	2.5	1.25
Twenty-Two-Mile	27,972	27,513	2.0	1.0
Beanbelly	34,954	61,170	3.5	1.75

^a Volume = area times average depth.

^b Average depth = maximum depth divided by 2

Temperature and oxygen were slightly stratified in all ponds during the summer and winter. The ponds were isothermal in the spring and fall (fig. 4). Oxygen supply depends partly on the water-exchange rate in each of the ponds during periodic thaws throughout the winter. Oxygen levels near the bottom of the ponds were lowest during December but were above 5 p/m at the surface in all four ponds. The dissolved oxygen supply may have become critically low later in the winter after a thick layer of ice formed.

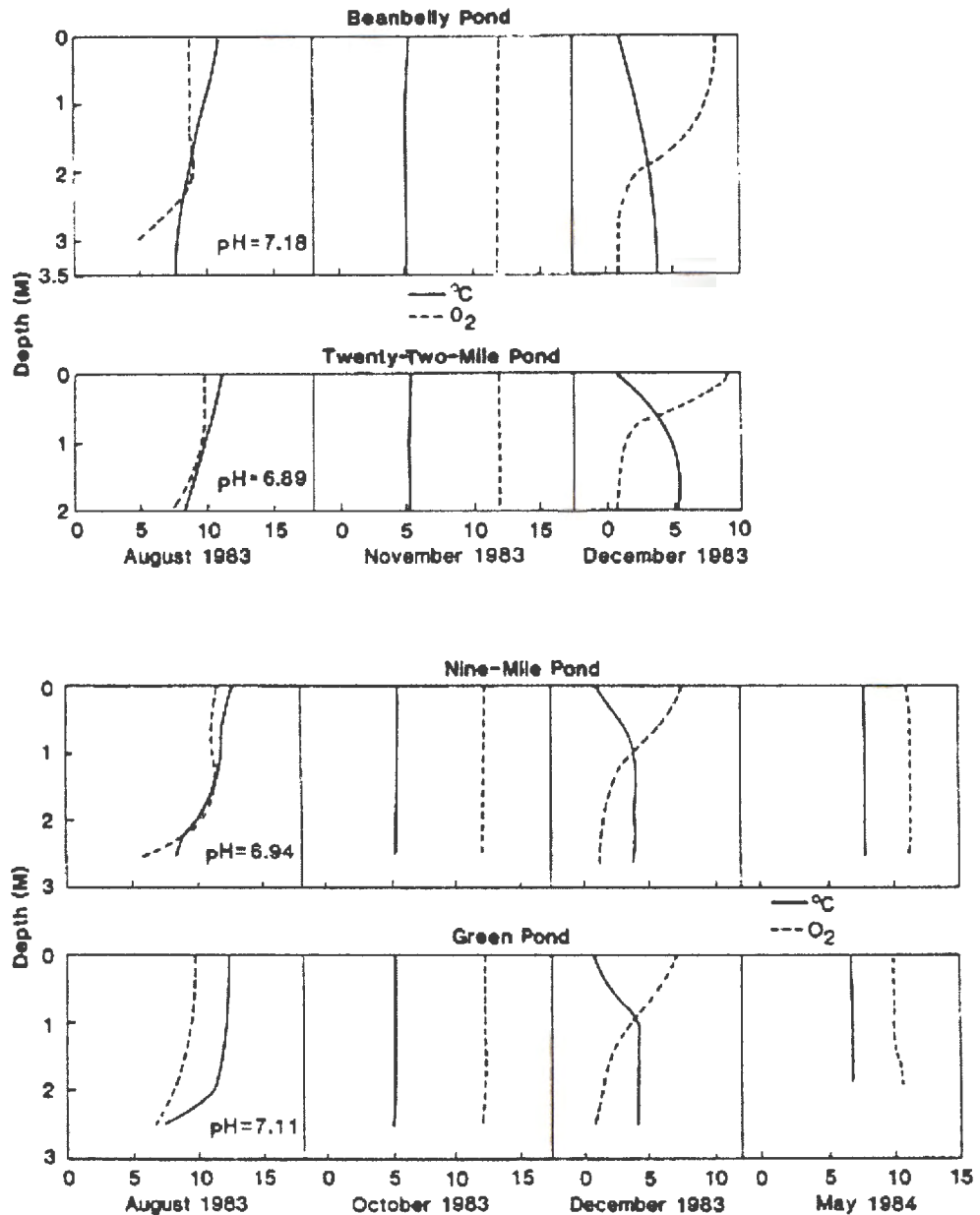


Figure 4—Seasonal temperature and oxygen profiles for Green, Nine-Mile, Twenty- Two-Mile, and Beanbelly Ponds.

Discussion

All four ponds were used to a greater or lesser extent by juvenile coho salmon during the study. Even over the short period of this study, populations fluctuated from year to year. In Green Pond, the salmonid population virtually disappeared after the fall of 1983. The population at Twenty-Two-Mile Pond was consistently low. Beanbelly and Nine-Mile Ponds consistently supported the highest populations of coho salmon.

None of the morphological or chemical features measured during the study appear to account for the differences and changes in the coho salmon population in the ponds. A more likely explanation may be the connection between the ponds and the river. Both Nine-Mile Pond and Beanbelly Pond had well-defined channels between the ponds and the river. The outlet to Twenty-Two-Mile Pond was poorly defined. Neither Twenty-Two-Mile Pond nor Green Pond had a defined inlet channel. Although ground water is an important source of water for the ponds, flow of surface water into and out of the ponds may be an important factor determining the water quality of the ponds as habitat for juvenile coho salmon.

Because all juvenile coho salmon immigrated into the ponds, the channel between the river and the ponds is critical to their use by coho salmon. All ponds were apparently accessible at high-flow periods (spring and fall) to juvenile coho salmon in the adjacent rivers, but the less well-defined channels connecting Twenty-Two-Mile Pond and Green Pond may have contributed to the low populations in these ponds. A poorly defined channel has lower velocity and is less likely to be found by the fish. Once found, it may not offer a clear path to the pond.

The coho salmon in the less productive ponds appeared to be less robust than those in the other two ponds. Where significant differences among length-weight regressions occurred, the lower values were associated with the ponds that had fewer coho salmon; therefore, factors other than access may be affecting productivity in the ponds. Among possible factors that were observed but not evaluated in this study are food and competition. Food may be a limiting factor and the differences in length-weight ratios may reflect fewer aquatic organisms available for food in these ponds. Large populations of threespine sticklebacks (*Gasterosteus aculeatus*) were observed in all the ponds. Beanbelly, Nine-Mile, and Twenty-Two-Mile Ponds had a dense cover of aquatic plants, and the bottom of Green Pond was covered with a dense mat of algae. The dense cover of aquatic vegetation would contribute to a large stickleback population by providing excellent habitat for reproduction and cover for newly hatched sticklebacks. The effect of competition for space and food between sticklebacks and coho salmon was not studied. Aquatic plants and algal growth would also contribute to low concentrations of benthic dissolved oxygen during fall and winter as the vegetation died and began to decompose. In addition, sticklebacks may be able to tolerate lower dissolved oxygen concentration than coho salmon.

Timber along the bank was apparently not a factor in any of the ponds. Twenty-Two-Mile Pond was the only one with large trees along the bank. These trees did not appear to influence the pond. Willow (*Salix* sp.) and alder (*Alnus* sp.) were the dominant vegetation along the banks of the other ponds. Based on observations of numbers of coho salmon captured near vegetation in the water, coho salmon do not appear to prefer brush habitat associated with these ponds. Nevertheless, shrubs along the bank may provide cover and a source of terrestrial insects to coho salmon.

Although the results of this study show differences among the ponds, specific factors controlling numbers of coho salmon in the ponds were not identified. The range of morphological and chemical differences measured in the ponds did not appear to affect numbers of coho salmon. The ponds apparently provide habitat for juvenile coho salmon although low dissolved oxygen sometimes may increase mortality. Coho salmon apparently remain in the ponds through winter.

The design of artificial ponds for juvenile coho salmon habitat should include several important morphological features. Adequate water quality is necessary throughout the year, particularly during the winter. A perennial flow of surface water into the pond may satisfy this requirement. The second requirement is access. An effective method for providing both these features is to construct an upstream inlet from the stream to the pond and a downstream outlet from the pond to the stream. Other favorable features include an average depth greater than 2 meters and bank vegetation for shade and cover.

Additional study on the effects of competitive interaction between salmonids and other species such as sticklebacks, the role of aquatic vegetation as cover and its effect on water quality, and the effects of pond morphology and water exchange rates could improve the design of artificial ponds. As projects are effectively evaluated, design criteria will be improved to increase the effectiveness of similar ponds. Ponds have not been extensively used as an enhancement tool for increasing coho salmon production, but they offer a promising and often low-cost enhancement method.

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Bryant, Mason D. 1988. Gravel pit ponds as habitat enhancement for juvenile coho salmon. General Technical Report PNW-GTR-212. Portland, OR: U.S. Department of Agriculture, Forest Service, Pacific Northwest Research Station. 10 p.

Gravel pits built during road construction in the early 1970's near Yakutat, Alaska, filled with water and were connected to nearby rivers to allow juvenile salmonids to enter. Seasonal changes in population size, length and weight, and length frequencies of the coho salmon population were evaluated over a 2-year period. Numbers of coho salmon fluctuated, but two of the ponds supported high populations, more than 2,000 fish, throughout the study. These ponds appeared to support coho salmon throughout the winter. The range of physical measurements of the ponds did not seem to account for differences in numbers of salmon, but low concentrations of dissolved oxygen were detected in all ponds near the bottom. Aquatic vegetation, water exchange rate, and access may have affected the number of coho salmon in the less-productive ponds.

Keywords: Fish habitat, salmonids, stream habitat management, southeast Alaska, Alaska (southeast).

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Recycled Soils Enhance Wetland Habitat in Juneau, Alaska

by Michele Elfers

IN disturbed ecosystems needing reclamation, excess materials from development projects offer new opportunities for wildlife habitat enhancement. The Nancy Street Wetland Enhancement Project pioneered a creative strategy to partner the development needs of a fill disposal site with desirable conservation goals. The project utilized clean native soils generated by a high school construction project in the Mendenhall Valley of Juneau, Alaska, to reclaim a 1950s era gravel pit into a functional wetland. Clean fill material was deposited and shaped to create mixed wetland topography, including a stream channel, deep and shallow water areas, and small islands. Plantings of emergent wetland, riparian, and upland vegetation improved habitat for fish and wildlife and water quality in what is part of a state designated impaired waterbody.

Located along Duck Creek in the Mendenhall Valley, the enhancement of the Nancy Street gravel pit was identified as a priority project in the Duck Creek Watershed Management Plan (National Marine Fisheries Service, 1999). Intense residential development over the past forty years in the Mendenhall Valley has impacted Duck Creek significantly. The increase of nonpoint source pollution, channelization, and above-grade stream crossings has degraded water quality and habitat. In 2002, the Alaska Biological Monitoring and Water Quality Assessment Program Report rated Duck Creek the lowest for habitat variables of all

streams studied in Southeast Alaska (Alaska Department of Environmental Conservation, 2003). Poor habitat quality has reduced anadromous fish populations such as coho and chum salmon, and has impacted habitat for the large number of mallards and other waterfowl that use these wetlands as refuge from nearby popular hunting zones.

In the 1950s and 1960s, gravel extraction created three adjacent, open water pits on the East Fork of Duck Creek. The most downstream pit is located at Nancy Street. Groundwater flowing into the pit carries dissolved iron from soil strata, which reacts with atmospheric oxygen upon reaching the surface. The resulting formation of iron oxide precipitate (iron "floc") decreases the concentration of dissolved oxygen in the water column, impacting aquatic inverte-

brates and fish. While not inherently toxic, iron floc also settles into the substrate, clogging gravel beds that might

The gravel pit at Nancy Street is located less than one mile from the high school construction site, and the enhancement project opportunity required a substantial amount of fill that had previously not been available.

otherwise provide good spawning habitat for fish.

The Engineering Department at the



Emergent wetlands are created along the perimeter of a deep water pool for juvenile coho salmon habitat.

City and Borough of Juneau (CBJ) initiated the wetland enhancement project in 2005 when designs for a new high school indicated a large amount of excess soil would be generated during construction. Transport of the fill for disposal would have required a three mile drive to a privately owned waste site. The gravel pit at Nancy Street is located less than one mile

Using the Nancy Street pit as a fill disposal site, the CBJ Engineering Department charged the high school construction contractor a lower rate for fill disposal and used the revenue to recover a portion of the land purchase cost.

from the high school construction site, and the enhancement project opportunity required a substantial amount of fill that had previously not been available. CBJ



The construction of a new high school contributed 64,000 cubic yards of clean fill to the wetland enhancement of the former gravel pit.

began coordinating with the U.S. Fish and Wildlife Service (USFWS) and the Natural Resources Conservation Service (NRCS) to use the clean native soil for wetland enhancement at the Nancy Street pit.

Consolidation of land ownership was the first step toward reclaiming the pit. CBJ owned most of the seven acre site, but a large parcel encompassing both open water wetland and upland areas was privately owned. The parcel was purchased for \$137,000. Using the Nancy Street pit as a fill disposal site, the CBJ Engineering Department charged the high

school construction contractor a lower rate for fill disposal and used the revenue to recover a portion of the land purchase cost. The cost to the CBJ of filling the Nancy Street site, including the land purchase, was \$319,000. The cost of the typical market alternative was \$572,000. By undertaking the wetland enhancement project partially funded by USFWS and NRCS cost share programs, the CBJ saved \$253,000 on the cost of the high school construction.

Site Planning:

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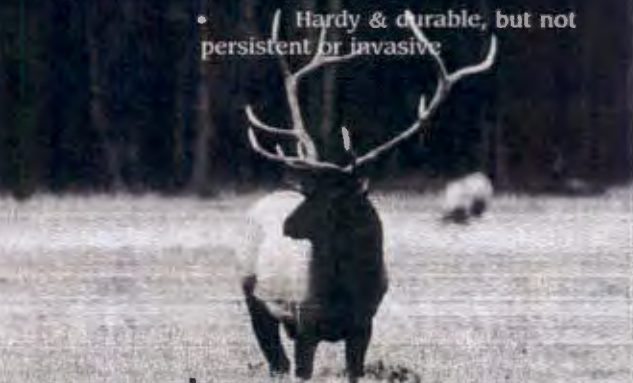
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and wetland enhancement project, the CBJ contracted the engineering firms Toner-Nordling Associates for the initial fill design and R&M Engineering, Inc. for the design development of the filling process. Glacier State Contractors, Inc. executed the design. To maintain flow through Duck Creek, a stream channel at a minimum of four feet deep was designed to meander through the wetland. From the perimeter of the wetland, shallow platforms, or marsh "fingers", were filled to allow for the planting of emergent marsh vegetation for fish and wildlife foraging and protective habitat. During construction, the fingers provided functional benefit by allowing access for dump trucks to the center of the wetland for filling. At each end of the wetland, two deep water areas were left in place to provide overwintering habitat for juvenile coho. After nine months of filling in 2005, 64,000 cubic yards were placed to create the wetland, resulting in increased savings for the CBJ.

An earthen dam was constructed to control water levels at the project site and in the two upstream pits. This occurred



AmeriCorps workers, with a local youth agency, SAGA, transplanted over 5,000 native plants from nearby wetlands into the former gravel pit.

after the filling and revegetation phase to create more stable and drier conditions during construction and planting. A meandering outlet stream was excavated

to allow fish passage through the earthen dam. Both the dam and the outlet stream were constructed using an impermeable liner to prevent water loss. Layers of

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became an important component in gaining public approval and support of the project. Adjacent landowners initially viewed the enhancement project as disruptive, but through the process of filling, planting and trail construction, many neighbors and community members have expressed that the enhancement is an improvement to the neighborhood. It offers recreational opportunities for a neighborhood composed of streets and private property, and provides access to a successional landscape with a fantastic view of the Mendenhall Glacier.

To encourage neighborhood use of the site, CBJ and Trail Mix Inc, constructed a six foot wide gravel trail, and a deck was sited at the south end to capture a remarkable view across the wetland of the Mendenhall Glacier. The decking on the observation deck and boardwalk, railings, and benches were built with recycled plastic lumber. An island at the north end is accessed by a bridge and boardwalk and offers a bench and viewing point south. The 70' bridge is a steel gangway recycled from a CBJ Docks and Harbors improvement project.

Throughout the construction process, volunteers donated time, materials and money to the project. Neighbors began appearing during the summer construction to comment on how excited they were about the project. The CBJ Ports and Harbors Department donated the bridge and benches and the U.S. Coast Guard Engineering Division volunteered to construct the observation deck.

As a result of the success of this project, a similar process is planned for the Allison Pond upstream of the Nancy Street Wetland. The process will be improved based on the lessons learned and applied to the Allison Pond site needs. The strategy and process developed by the Engineering Department at the CBJ has saved the taxpayer's money by pioneering this alternative option to fill disposal. The support of resource agencies, local organizations, and citizen volunteers has enhanced habitat for fish and wildlife and reclaimed a valuable community resource. **L&W**

For more information contact Michele Elfers, City & Borough of Juneau, Alaska, (907)586-0931, e-mail: michele_elfers@ci.juneau.ak.us.

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cobbles and gravel for spawning were placed on top of the stream channel liner to create riffles and shallow pools.

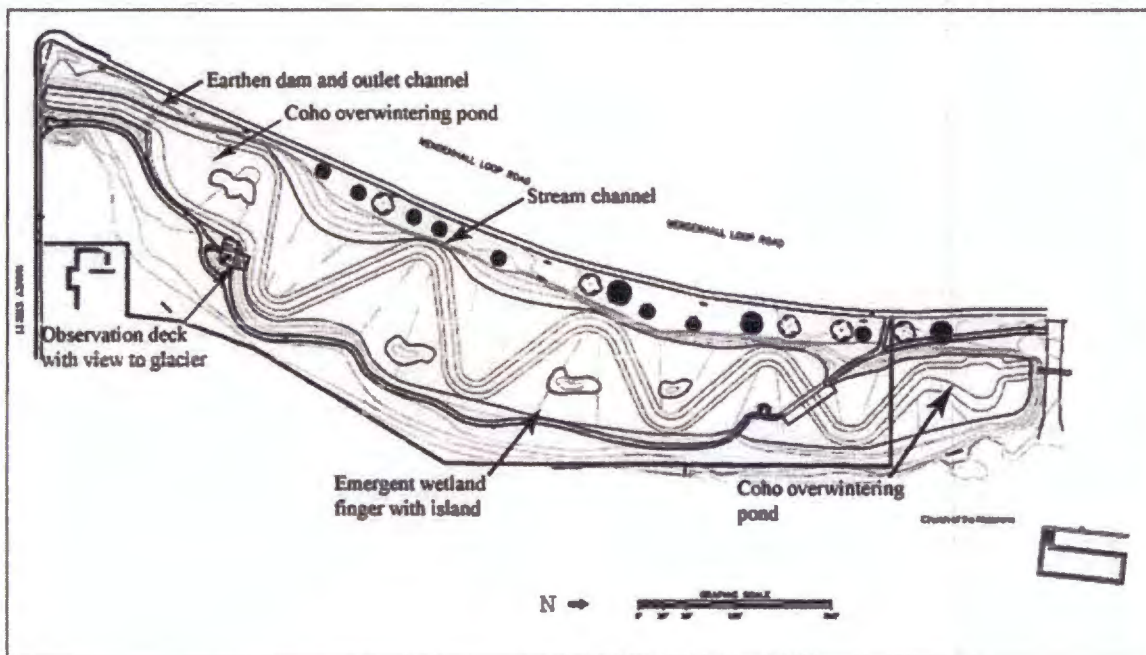
The site design and implementation plans of the filling process determined both habitat improvement and operational efficiency. By filling and completing

tritic zones based on the depth of water in which they grow. Although the Nancy Street Wetland is primarily ground water fed, precipitation and surface runoff influence the water level and will therefore affect the survival and composition of the site's wetland plant community.

Alaska and British Columbia. All planting work was done by hand using shovel bulb planters, and pulaskis.

Lessons Learned:

To improve the revegetation process for future projects, better planning for irrigation should be in place prior to transplanting. As mentioned earlier, the dam was constructed after the completion of the planting of the emergent vegetation. Revegetation occurred between the months of April and August when Juneau received thirty inches of rain. However, a two-week period of unusually warm, sunny weather desiccated the high marsh area. Watering was necessary, but difficult to accomplish on such a large site. Crews used buckets and a garden quality



each "finger" and section of the wetland individually, greater variety and attention to each landform was introduced. Initially the option of filling the entire site and then returning to dredge the stream channel had been considered, but would have resulted in less diversity of habitat and less attention to the design details. The chosen approach facilitated meeting the design elevations to within 3 inches to provide necessary habitat for emergent wetland plants—a difficult task on a large project where over 60,000 cubic yards of fill are being placed.

Revegetation planning began in early 2006 by researching and evaluating three locally constructed wetlands and interviewing local naturalists experienced in reclamation and revegetation projects. There was no previously documented information on constructed wetlands in Southeast Alaska, so this project is being carefully monitored to provide baseline information that can be used for development of future wetland enhancement projects. For the purpose of planting design, plants were divided into concen-

During the planting season of 2006, volunteers from the community and Americorps workers funded by USFWS planted over 5,000 emergent plugs and cuttings, and 150 lbs of grass and forb seeds. As there are no native plant nurseries in Juneau or Southeast Alaska, the workers transplanted plugs and cuttings from local wetlands to maintain native gene stock and minimize the possibility of importing invasive plants. Seeds were purchased or donated from sources in

gasoline-powered water pump to irrigate the wetland. Some plant mortality occurred, and it is likely that a prolonged period of hot, dry weather would have significantly impacted plant survival. To prevent this from happening on future projects, fill and topsoil with a higher organic content than what was used in this project would help retain moisture. Other strategies include controlling water levels to keep soil saturated while planting, or the delaying of planting until July when precipitation is more reliable and frequent in Juneau.

There is some concern that the water level is higher than the designed level. However, the rainfall was higher than average in 2006, so it is difficult to tell the water levels in the wetland will drop. For this reason, designing a dam with adjustability to account for the discrepancy in water level would improve the function and success of the project.

Recreational Use of the Site:

The design and development of a community trail through the wetland

There was no previously documented information on constructed wetlands in Southeast Alaska, so this project is being carefully monitored to provide baseline information that can be used for development of future wetland enhancement projects.

Guidelines for Gravel-Pit Wetland Creation

by

Bonnie Baldwin Prange

Abstract. The frequent colonization of the margins of abandoned and unreclaimed wet sand and gravel pits by typical marsh vegetation indicates the feasibility of a created wetlands component in gravel/sand reclamation planning. Using the natural pit wetlands as models and examining the pertinent literature, guidelines were developed for: (1) selecting promising sites, (2) planning with a regional perspective, and (3) construction and monitoring. Key concepts are: hydrological stability and adjacent land uses that will not have an adverse impact; consideration given to how a pit wetland will interact with adjacent ecosystems on a regional level; grading of pit perimeters to produce irregular contours and no more than a 0.6 m change of elevation within the proposed wetland; a combination of limited deliberate planting along with natural colonization whenever the reclamation permit can be adjusted to allow the 3 to 4 years commonly necessary for such colonization; the establishment of self-perpetuating marsh vegetation confirmed over a 3-year period of observation as a minimum requirement for determining permit compliance. Longer term monitoring of pits reclaimed under these guidelines could provide information that would increase and refine post-mining land-use options for wet sites. Research projects could focus on learning more about development of wetland functions within created systems, eventually providing standards for evaluation on a functional level.

Introduction

Wetland creation is still in its infancy as an applied science and is not yet capable of producing predictable results. It is, consequently, a subject of considerable controversy. To some it appears to be a relatively simple, repeatable process; to others a minefield of assumptions regarding ecosystem structure and function. The experimental nature of wetland-creation has made it less attractive for mine reclamation proposals, resulting in very little effort made to purposefully create gravel-pit wetlands, even where conditions are very favorable. The vast majority of wetlands and waterbodies on mined lands nationwide exist not because they were planned for, but by accident as a result of the mining of gravel for highway and other construction projects (Brooks, 1990). As examples

of natural regeneration, these sites can provide valuable information regarding the species composition, life-support functions, and long-term persistence that might be expected in future "successful" wetland creations.

Without substantial scientific evidence, which we do not have, there is no reason to assume that these volunteer wetlands function on the same level or provide the benefits of the long-established ecosystems which have been filled-in and lost to agriculture and development. It seems likely, however, that even disturbed and degraded wetland sites may have unknown value. Increasingly, studies indicate that these sites may be very significant for rare species, migratory birds, and regional hydrological functions (Josselyn and others, 1990). "Sites presumed to have little value may provide vital

refuge for species during storm events or support rare and endangered species due to lower interspecific competition within these marginal habitats" (Josselyn and others, 1990).

Scientists have now begun to study wetland creation and restoration in an effort to manage and accelerate processes which may take generations to occur naturally. From these experimental studies will come information which may ultimately allow true replacement of lost or damaged ecosystems. More research is needed, and sand/gravel pits are in many instances ideal as test sites. Excavations that expose the water table commonly create the hydrological features necessary for a wetland, and they eliminate the need for diking and high-maintenance pumping and drainage systems.

The gradual colonization of numerous abandoned wet pits by wetland species indicates both their suitability for subsequent use as a planned wetland and the potential to add to the wetland resource base. Innovative reclamation could supply valuable habitat, contribute to regional hydrological resources, and provide research opportunities to improve our understanding of artificial wetlands. Sand/gravel-pit wetlands offer benefits to society with which mining companies could be pleased to be associated and identified.

Minimum Site Requirements

Hydrology

Hydrology is the key to long-term functioning of wetland ecosystems (Kusler and Kentula, 1990). Since establishment of hydrophytic vegetation will depend on both the predictability and controlled fluctuation of water levels, wetland creation should be restricted to those sites for which seasonal water-level elevations have been determined and where some manipulation is possible. Freshwater gravel-pit wetlands not in river or stream beds will be dependent on ground water and variable surface water flows.

Ground water and surface runoff do not always provide dependable water sources, but in most situations they will satisfy the requirements of a wetland project (Van Egmond and Green, 1992).

Assessing the reclamation potential of sand or gravel excavations as wetlands should involve monitoring test pits for annual water-level fluctuations. The amount of fluctuation depends on the nature of the aquifer and on how much water mining operations and nearby users consume. Ranges of 2 meters per year are not uncommon in porous sand and gravel aquifers with local recharge zones (Michalski and others, 1987). Some gravel-pit sites may not be suitable for wetland development due to extreme variations of the water table. Suitability can not be determined until the expected range of the water-table elevation has been established with statistically sound data. Since a successful wetland design incorporates many site-specific variables, it is not possible to generalize acceptable range maximums or periodicity. A decision must be based on project goals and the requirements and tolerances of the wetland-plant communities that project designers want to establish (T. S. Miller, King County Services, oral commun., 1992). The widely varying flooding tolerances among wetland species can be used to advantage in increasing wetland creation options for a particular site. A flexible plan that can accommodate unexpected changes in plant community composition will have a greater chance of success, especially where ground water flows are seasonally unstable.

Potential Land-Use Conflicts

Social considerations may be just as important determinants of site suitability as physical ones. "Adjacent land use . . . could detrimentally impact functioning of wetlands or the wetlands may have detrimental impacts on current or planned uses of neighboring lands" (Hammer, 1992). Intensive agriculture or heavy industry adjacent to the site might produce sediment or chemical-loaded runoff that would prevent wetland establishment.

Wetlands themselves can be unwelcome neighbors. Although some new housing developments and office complexes are planned around preserved sections of wetlands, residents of established communities may well object when wetland alternatives are proposed. Neighborhood opposition often focuses on the prospect of public use, with fears of noise, traffic, and vandalism paramount. Several mining companies have shelved plans to donate lands to the public when faced with organized community opposition (Morris, 1982).

Planning Pit-to-Wetland Conversions

Pre-planning for Realistic Goals

Wetland conversion plans should be "integrated with mining operations and reclamation at the beginning of any project" (Brooks, 1990). This ideal should not preclude adding wetlands to an existing reclamation plan. Wetland creation could be added to a previously permitted proposal for a post-mining open-water pond, for instance, assuming the hydrologic conditions to support the pond had already been established. Reclamation designed around an aquatic ecosystem goal provides direction in the early planning stages, but the decision to attempt creation of specific wetland functions might best be left until mining is nearly complete. At that point the altered hydrology of the site could be re-evaluated, and objectives could be based on several seasons of hydrological data-gathering plus assessment of regional land-use trends over the same time-span. When objectives have been established, they should be clearly described and recorded, along with any subsequent amendments, because on-site modifications during construction and planting are commonly necessary (Hammer, 1992).

Michalski and others (1987) recommend detailed studies to determine surficial characteristics of the site before, during, and after extraction. If pumping of ground water is part of the extraction process, the output could be monitored to estimate in-flow rates and the potential

area of ground-water influence after mining (Michalski and others, 1987). Pre-mining planning could include provisions for hydrological monitoring and record-keeping at various stages over the life of the mine. This provides the database from which to determine the most feasible final configuration. The information would be useful for establishing other reclamation endpoints if it did not ultimately support the proposed wetland goal.

Regional Reference Wetlands as Guidelines

The most fundamental goal, regardless of the specific chosen objectives, is to develop self-maintaining systems that mimic natural ones in as many ways as possible. The study of local natural wetlands is important because artificial wetlands must closely imitate natural systems adapted to the region if a creation project is to succeed without continual operating and maintenance costs (Hammer, 1992). This means that design parameters must be appropriate to local hydrology, climate, and soil conditions. Measurements of elements of wetland structure at a natural site within the region or watershed that shares these conditions will provide insights into what is obtainable and how to evaluate progress at the constructed site (Hammer, 1992). In the context of comparisons of natural to artificial, the objectives for a created wetland must encompass "only a very early successional stage if the evaluation period is short (less than 10 years for a marsh)" (Hammer, 1992).

Landscape Considerations

Even if the physical parameters of a site are favorable for reclamation as wetland, the result will be counterproductive if it conflicts with regional land-use priorities or overall ecological balance. "Land managers need to establish their mitigation policies in the context of what changes are occurring in wetland types throughout a given physiographic region, not just on a particular mine site" (Brooks, 1990). Assessing these trends to determine regional need for specific wetland types requires coordination among

federal and state agencies. Cooperating agencies must then see that this information is transferred to those who will be planning wetland construction, including the mining industry (Brooks and others, 1988).

Constructing a Gravel-pit Wetland

Site-specific Considerations and Grading Plans

Since each site presents a particular combination of hydrology, topography, and substrate, only generalized instructions can be provided. There are no exact guidelines yet accepted in the very young science of wetland creation. Given favorable site hydrology, however, it is possible to proceed with assurance that the creation of gentle slopes at pit perimeters plus restoration of topsoil, or even moderately amended subsoil, will result in establishment of wetland vegetation. Many abandoned wet pits have, over time, acquired typical wetland vegetational characteristics with far less encouragement.

Although many mine reclamation plans are submitted in the initial permitting process, it may not be practical to plan the specifics of a post-mining pit wetland until the extraction is nearly complete. At that point it should be possible to draw up a detailed site grading plan which will take the site variables into account. The final hydrological parameters, in particular, may not be fully anticipated or understood until the alterations that mining imposes have actually been realized. The site grading plan is an essential element in engineering the site for wetlands because it will determine basin morphometry, which in turn determines vegetational composition (Garbisch, 1986). Because many wetland plants are sensitive to water depths within a low range of tolerance, the most useful plan would have contours of 1 foot or less at a scale of 1 inch equals 20 to 50 feet (Miller, 1987).

The precision grading required to bring the site to the final grade within the established tolerances may not be possible if water cannot

be excluded from the pit (Garbisch, 1986). In these instances, "the site grading plan should reflect this . . . and specify the scattered mounding of fill materials in order to diversify the wetland habitat" (Garbisch, 1986).

Shorelines and Slopes

A common recommendation for sand-or-gravel-mine wetland construction is to increase the area of the pit basin by creating an irregular shoreline. Bays, inlets, coves, peninsulas, and islands increase topographic heterogeneity and habitat diversity and provide more "edge" by increasing percentage of shoreline per unit area (Crawford and Rossiter, 1982). Pit floors should also have an irregular topography with mounds and depressions (Norman and Lingley, 1992; Van Egmond and Green, 1992; Michalski and others, 1987). Dumping overburden in irregularly spaced piles will create rough bottom contours and perimeter landforms (Van Egmond and Green, 1992).

Construction of some of these landforms can take place during mining to simplify post-mining reclamation. Overburden and waste materials (including boulders and tree debris) can be graded into landforms above and below the water line (Michalski and others, 1987). Islands for protection of waterfowl and general ecosystem diversity can be developed in undrained pits during operations (Michalski and others, 1987). They should be separated from the shore by a permanent water depth of 1-to-2 m and a width of 4-or-5 m, with tops at least 1 m above the estimated highwater mark (Van Egmond and Green, 1992).

Slopes for a true marsh community need to be almost flat — no more than a 0.6-m change of elevation between the deep and shallow marsh (Miller, 1987). Shallow slopes maximize flooding and minimize erosion (Kruczynski, 1990). Brooks (1990) and Crawford and Rossiter (1982) recommend gentle slopes at 10H:1V or 20H:1V; Kruczynski (1990) suggests that a range of 5H:1V to 15H:1V is acceptable. Since it is unlikely that efficient mining will be possible at

these angles, the cut-and-fill method can be used to create recommended slopes (Norman and Lingley, 1992).

Unless slopes have been left ungraded and unstabilized, gravel-pit waterbodies typically have two distinct habitats: the shoreline wetland and open water. Grading plans will determine how much area will be allotted for each. Fifty percent open water to 50% marsh or swamp is often cited as optimal for fish and wildlife habitat (Van Egmond and Green, 1992; Crawford and Rossiter, 1982). Norman and Lingley (1992) suggest 25% of the waterbody in shallow water less than 0.6 m deep, 25% in shallow water 0.6-2 m deep, and 50% in water greater than 3 m as a general guideline for use by fish and waterfowl. If wetland communities are the objective, however, "the higher percentage of shallow areas the better" (Norman and Lingley, 1992).

Water Level Adjustment

Gravel and sand pit-wetland creations are primarily ground water-fed and therefore may not require elaborate water-control mechanisms. According to Van Egmond and Green (1992), "natural cycles of drought and wet spells will sometimes provide adequate changes in water levels." An outlet with a controllable weir will increase management options, however, and will enable periodic partial drainage which helps re-establish wetland vegetation. Van Egmond and Green (1992) recommend that a water-level drawdown should occur every 3 to 10 years. Boule (1988) emphasizes the importance of simple systems which are more likely to be self-regulating and self-maintaining. He advocates relatively inexpensive weirs or other similar devices which are unlikely to fail and disrupt the entire system. Outlets should be identified on-site and recorded in plans so that they can be periodically inspected and protected from erosion (Norman and Lingley 1992).

Branch (1985) reported successful vegetation establishment on a 5-ha portion of an abandoned sand and gravel mine in Maryland using a

device with a removable weir plate which controlled the top 0.3 m of water in the basin. Removal of the weir plate exposed perimeter areas for planting; once this was complete, the plate was reinstalled to restore the project design water levels. Garbisch (1986) suggests that incorporation of an adjustable weir in the project design may compensate for less-than-precise grading.

Although periodic "drawdowns" are important for waterbodies that function as waterfowl habitat, many pit ponds lack surface drainage and "cannot be drawn down using standard dikes and weirs" (Michalski and others, 1987). For landlocked ponds receiving supplemental water from surface runoff, a partial drawdown can be engineered by periodically diverting this surface flow (Michalski and others, 1987). Unless there are concerns about contaminants in the surface water, it can be directed toward the pit-pond impoundments (Van Egmond and Green, 1992). The drainage channels "should have a natural sinuosity and gradient", should be stabilized with riprap or vegetation, and should be directed through upland "vegetated areas to slow runoffs and aid in water filtration" (Norman and Lingley, 1992).

Sealing and Lining

Since "most natural wetlands are perched above an impervious layer that reduces or prevents water loss", Hammer (1992) believes that there are few situations in which a basin can sustain a wetlands ecosystem without an impermeable lining. Brooks (1990), on the other hand, states that "basins constructed below the water table rarely need to be sealed." Wet pits have an advantage as wetland creation sites not only because they are filled primarily by ground water flow, but also because natural sealing is common. The material left behind after gravel mining usually has a fairly high percentage of clay or silt, especially if aggregate was washed on site (Bradshaw and Chadwick, 1980). These "fines" will contribute to the blocking of water movement, and over time additional fine sediments will be eroded or carried into the pit lake

with surface runoff (Evoy and Holland, 1989). The extent of this natural sealing will vary from site to site depending on the shape of the pit, bank materials, perimeter vegetation and water turbidity (Durbec and others, 1987). It seems likely, however, that even a partial lining of sediments within the pit would be beneficial from a wetland creation perspective.

Soils

An appropriate substrate for plant establishment can be created by placing topsoil on banks, islands, and submerged areas that have the recommended shallow grade. Norman and Lingley (1992) recommend a 15-to-20 cm layer of topsoil over a thicker layer of subsoil; Hammer (1992) suggests a 40-to-60 cm total soil layer (topsoil and subsoil) will be needed to provide adequate substrate for root growth. This soil layer should be placed on islands and down to 1.5 m below the expected highwater mark for the wetland perimeter (Van Egmond and Green, 1992). If grading-plan configurations are to remain accurate, the pre-final grades will have to be made lower than the final design elevations to allow room for the topsoil (Miller, 1987).

Stripping and stockpiling of topsoil before mining will reduce reclamation costs later on. To maximize efficient use of on-site materials, clean process-waste fines can be used to augment salvaged topsoil (Hart and Keammerer, 1992). Structural damage can be minimized if soil stripping and replacement is limited to dry periods and if proper machinery (e.g., wide-track crawler bulldozers) is used in re-application (Norman and Lingley, 1992). Any sort of unnecessary equipment movement over the soil should be avoided.

There are varied estimations of appropriate topsoil storage periods. Brooks (1990) specifies a maximum of 3 months. Garbisch (1986) says stockpile duration must be less than 4 weeks. Segmental reclamation is the only procedure that will be compatible with these storage times,

because it allows transfer of topsoil directly from an active mining segment to another segment which is in the process of being reclaimed. This reclamation approach is ideal for larger sites and long-term operations, but it is not always an option where deposit heterogeneity and market fluctuations prevent continual movement of the operation from one segment to the next (Norman and Lingley, 1992). Where longer storage periods are necessary, Michalski and others (1987) suggest seeding of the piles as a way to reduce loss of quality.

For mined sites that have no salvaged topsoil available, the partially weathered subsoil may be an acceptable substitute (Michalski and others, 1987). Garbisch (1986) goes so far as to say that most clean (uncontaminated) inorganic borrow and dredged fill materials will be satisfactory substrates for wetland establishment. Hammer (1992) agrees that "most common substrates are suitable for wetland establishment" and that "wetland plants thrive in a broad range of soil types", but adds that topsoil replacement may eliminate the need for soil amendments.

If subsoil or overburden material is the only planting medium available, then a controlled time-release fertilizer that performs in saturated soils should be put into the substrate together with the transplant (Garbisch, 1986). If the planting is occurring underwater, Garbisch (1986) suggests placing the fertilizer in burlap sacks underneath the transplant. Fertilizers should never be broadcast or spread on the soil surface of wetlands (Shapiro and Associates, 1991). The cost and additional labor necessary to apply these fertilizers would seem to argue for on-site salvaging or site-to-site transfer of topsoil whenever possible.

Straw or hay mulch is another option to consider for any reclaimed site where the substrate lacks organic matter (Brooks, 1990) and could be an inexpensive adjunct or alternative to commercial fertilizer for wetland applications. Street (1982) recommends 1 kg straw mulch per square meter.

Wetland Vegetation

For wetland creations, there are only two basic reasons for choosing managed revegetation over natural colonization: timing and species composition (Josselyn and others, 1990). Composition, especially, is a factor in many mitigation proposals. Revegetation by artificial means may be required, for example, if a specific wetland plant community is necessary to replace habitat for wildlife species that are losing habitat elsewhere. In these situations it may be advisable to salvage plants from wetland sites that are being destroyed and transfer them to a new site where their genetic diversity is likely to be preserved.

Managed revegetation programs are also generally more successful in controlling exotic species which commonly invade disturbed areas and become established first (Josselyn and others, 1990). These exotics usually have a competitive edge over native marsh species and may form extensive monotypic or low diversity stands that decrease the wildlife habitat or nutrient processing functions of the wetlands they take over. Reed canarygrass (*Phalaris arundinacea*) and purple loosestrife (*Lythrum salicaria*) are notorious local examples in freshwater wetlands.

There are also a few ubiquitous native wetland plants which may be considered undesirable due to their aggressive, weedy characteristics. Many wetland ecologists would advise control of dominants such as common cattail (*Typha latifolia*), willow (*Salix* spp.), and cottonwood (*Populus* spp.) because of their tendency to reduce system diversity and crowd out plants more valuable to wildlife (Hammer, 1992; Odum, 1988; Erwin and Best, 1985). These pioneer colonizers are adapted to invade disturbed sites, and "creation projects often behave like disturbed wetlands" (Odum, 1988). Nonetheless, dominant natives such as cattail, willows and cottonwoods remain popular components of revegetation projects and are found on many lists of suggested species for wetland plantings. As naturally occurring features on most disturbed

freshwater wetland sites, they would seem to be far preferable to weedy exotics and perhaps not worth great effort and expense to control unless their establishment would conflict with project goals.

If a natural seed source is nearby, or if the substrate contains a seedbank from another location, periodic manipulation of water levels in the constructed wetland basin can be sufficient to start germination and retard growth of terrestrial species. Miller (1987) suggests that a seed source can be obtained from mud removed from shorelines of existing ponds and marshes and spread in the shallows (water depth less than 10 cm) of the created site. Brooks (1990) mentions the possible transfer of seed-bearing hydric soils from wetlands scheduled to be altered or filled-in for development. The removal of plants or soil can be justified only when the destruction of the natural wetland is a legally sanctioned certainty and all relevant government regulations have been followed. If these conditions are met, salvaging of plants and hydric soils from nearby development sites or during segmental reclamation should be encouraged as a means of preserving what would otherwise be lost.

A post-reclamation study comparing treatments in a central Florida marshland reclaimed from a phosphate mine provides support for the use of relocated hydric soils. The study determined that topsoiling with a 2-to-10cm-thick layer of "mulch" containing seed and root material obtained from a wetland borrow site showed "distinct advantages over natural revegetation of overburden" (Erwin and Best, 1985). After two full growing seasons, the mulched areas had higher species diversity and more complete vegetative cover than the untreated overburden areas. More importantly, this topsoiling method "appears to encourage the accelerated establishment of late successional plants in sufficient quantities to compete with aggressive weedy species" (Erwin and Best, 1985).

Natural hydric soil seedbanks thus obtained should not be stockpiled for longer than 1 month to avoid desiccation and possible re-oxidation of

metals (Brooks, 1990). Hammer (1992) advises that any wetlands soil reserved for later use should be stored underwater to prevent release of bound metals.

If a legally and ecologically acceptable donor site is available, Hammer (1992) recommends an alternative to digging out and spreading a layer of wetland soils. This method involves collecting cores of wetland soil (10-12 cm diameter and 15-25 cm long) and inserting them in the substrate at the reclamation site. The cores contain seeds as well as roots, tubers and rhizomes and can rapidly develop into a complex wetland community. They are also a reservoir of propagules that may produce additional plant growth for several years after they are installed at the new site. Disadvantages center around labor costs involved in collecting, transporting, and installing the cumbersome and somewhat fragile cores.

If species composition for a particular mitigation purpose is not a concern, and if establishment within a limited time frame and budget is the priority, then a combination of natural colonization and deliberate planting may be the most effective way to establish vegetation on gravel-pit wetlands. Natural regeneration, while not "manageable" enough for situations where precise control over outcome is important (Garbisch, 1986), may provide the best long-term results because the plants will grow where they are best adapted (Clewell and Lea, 1990). The availability of natural seed sources adjacent to the project site or the possibility of seed transport into the site via flood waters needs to be evaluated if natural revegetation is part of the reclamation plan (Clewell and Lea, 1990). The amount of hand planting undertaken should depend on the proximity or reliability of a seed source, labor and materials costs, and time allotted to complete the project.

For those pit wetlands that can or must be hand planted, the best guide for species selection will be found in the vegetative composition of similar nearby wetlands (Hammer, 1992). Local native-plant nurseries, a few of which specialize in wetland vegetation, are sources of advice on

what species combinations will produce the most natural plant communities. The objectives of the reclamation plan, which might include wildlife habitat, aesthetic enhancement, and/or storm-water detention and purification, will also help determine appropriate plant species (McMullen, 1988). The limiting factors, however, will be the physical conditions at the site and the environmental tolerances of available nursery stock.

The type of plant stock chosen will influence timing of planting and vice versa. Spring is usually the best time to plant, with fall the next best choice (McMullen, 1988). Propagules planted in late spring may be less susceptible to wildlife damage due to the shorter time to be expected between planting and germination. These timing recommendations generally apply to the seeds, rhizomes, corms, and tubers of herbaceous species, as well as to the whole plants. Woody vegetation such as trees and shrubs should be planted in the dormant state which generally extends from November through March in the Pacific Northwest (Norman and Lingley, 1992).

A biologist familiar with local wetlands should review the proposed planting design. "The number of each plant species to be used will be based on the type of community, the plant's position in the community, and the required spacing between plants" (Miller, 1987). Miller (1987) generally recommends that trees planted on 4.6-to-7.6-m centers, shrubs on 0.9-to-2.4-m centers and groundcovers on 1.0-m centers would be appropriate for the emergent shorelines of created freshwater wetlands. Marshes created in standing water deeper than 10 cm are most easily established using sprigs (culms), tubers, or rhizomes (Miller, 1987). These propagules are pushed into the mud/mulch substrate on 0.3-to-1.5-meter centers (Brooks, 1990). Plantings should be irregularly spaced in clumps to mimic natural spacing as closely as possible.

The cost of managed revegetation with nursery stock and labor intensive hand planting can be substantial (Brooks and others, 1988). Miller (1987) estimates that approximately 27,000

transplants per hectare will be necessary to establish a created marsh wetland. Costs can be greatly reduced if time expectations and reclamation objectives allow at least partial natural colonization. If the hydrological aspects of a site are favorable to begin with, precise grading and substrate preparation should be enough to assure emergence of at least a few native and/or naturalized wetland species. On sites being created as a diversity-enhancing feature of a mine reclamation plan and not as mitigations for specific wetland losses, this may be all that is needed.

Buffer areas consisting of native upland vegetation and at least 30 meters wide will increase habitat diversity and protect the shoreline and should be planted/seeded on the higher ground surrounding the pit impoundment and created perimeter wetland (Norman and Lingley, 1992). According to Munro (1991), vegetated areas should be provided as buffers between wetlands and adjacent developed land or as transition zones between wetlands and adjacent natural areas even if not required by regulations.

Post-construction Monitoring

Evaluating Success

The construction process, if carefully planned and well executed, should produce a site on which the altered hydrologic conditions favor wetland development. The introduction of wetland plant species, whether by natural colonization or managed revegetation, is only the first step in that development. Wetland functions for which the project was designed might not develop for decades, if at all. According to Hammer (1992), it is "grossly unrealistic to expect to create even the simplest type of natural wetlands systems" within 2 or 3 years after construction. This makes it very difficult for regulators to determine whether a wetland reclamation has been "successful", particularly if the site is part of a mitigation effort to replace the functions of natural wetlands sacrificed to development.

The time limits for completion of revegetation that are specified by many surface-mine regulatory programs are inadequate for the evaluation of created wetlands. Washington State allows 2 years or "such later date as may be authorized by the department" (Chapter 332-18-050 WAC). The literature on wetland creation and restoration indicates that 2 years is not sufficient time for stabilization of new emergent marsh ecosystems. Boule (1988) suggests that establishment and natural perpetuation of plants in marsh and shrub-swamp systems would require 3 to 5 years. Brooks (1990) states that "there is some scientific evidence for the stabilization of emergent marsh systems after three years." Josselyn and others (1990) report their observations that many San Francisco Bay area wetland restoration projects which had been considered revegetation failures became fully vegetated when allowed a 3-to-4-year period of natural regeneration.

Past experience with restored or created wetlands also indicates that revegetation over 1 or 2 years is "no guarantee that the area will continue to function over time" (Kusler and Kentula, 1990). Active monitoring, with periodic review by qualified personnel, would provide some perspective on the direction that site development is following and would allow for timely mid-course corrections if necessary. Reports, submitted within 90 days following sampling, should document any vegetation changes including percent survival and cover of planted and/or volunteer species (Erwin, 1990). Monitoring reports should also document issues related to water levels, water quality, and sedimentation and discuss recommendations for improving the degree of success observed (Erwin, 1990).

Short-term vs. Long-term Monitoring

The evidence regarding the establishment of marsh vegetation seems to indicate a minimum 3-year monitoring program for wetland creation projects. Brooks (1990) suggests that expenses for a 3-year monitoring period be included in the cost projections for any mine reclamation plan

with a wetlands component. This allows for assessing of varying conditions over three growing seasons and should not result in unbearable economic burdens on the permittee (Brooks, 1990). Boule (1988) feels that annual monitoring of wetland creations over a 3-year period is the minimum acceptable term; 5 years would be more appropriate for some complex projects. Erwin (1990) agrees that post-construction monitoring should be conducted over a 5-year period, with a minimum of 3 years, and with annual inspections at the end of each wet season.

The short-term monitoring proposed here will not be sufficient for scientific research and data collection, and it will not help redirect evaluations toward establishment of wetland functions rather than appearance. Success in a 3-year time-frame may have to be measured in terms of survival and growth of plant species characteristic of a wetland community with no consideration of functional attributes.

Long-term research projects that will enhance our ability to predict the outcomes of mitigation policy should be encouraged and carried out whenever possible. These projects can focus on learning more about development of wetland functions within created systems and may eventually provide standards for evaluating function. Until such standards exist, personnel responsible for judging compliance with permit requirements will have to rely on the tools at hand. For wetlands created outside a mitigation context the establishment of self-perpetuating marsh vegetation, confirmed over a 3-year period of observation, seems a realistic and appropriately flexible reclamation objective.

Correcting Problems

In addition to verifying compliance with reclamation plan requirements, monitoring programs can also identify problems which might eventually lead to failure. Miller (1987)

and Garbisch (1986) list several reasons for poor results at some wetland creation projects: improper final grade, invasion or deliberate planting of nonnative plant species, poor planting techniques, inadequate water levels, vandalism, and wildlife predation. Mid-course corrections can often mitigate these problems before the project becomes a lost cause, but corrective measures are best determined by professionals qualified in fields such as wetland science or restoration ecology.

Some created wetlands need long-term management to survive and function as they were intended. This "may include water level manipulation, control of exotics, controlled burns, predator control, and periodic sediment removal" (Kusler and Kentula, 1990). Management of this type beyond a 3-to-5-year program coordinated with annual monitoring is probably not feasible for most reclaimed pit sites. Once the mine operator is released from further obligations under the reclamation permit, the site will have to be self-sustaining. This means that problems that are not correctable within the proposed 3-year monitoring period will continue to have a detrimental influence, perhaps a regional one.

This further emphasizes the importance of site-specific project designs developed from data gathered both before and during the mining operation. Although each site is an experiment within which complete control is never possible, development of a practical, self-sustaining design that uses knowledge of site characteristics is the best defense against the unexpected. Larson (1988) suggests that minimum data requirements for freshwater wetland creation projects include a baseline of information on land-use history, macrotopography, general surficial geology, streamflow, lake hydraulics, and ground water levels and quality. Hart and Keammerer (1992) stress the importance of accurate historical project records documenting the techniques used, including a detailed photographic record. "This information is of paramount importance relative to understanding successes or failures" (Hart and Keammerer, 1992).

Conclusions

The sand and gravel industry, increasingly under public scrutiny as its operations are encroached upon by suburban development, must now focus on the long-term regional implications of post-mining land-use decisions. It has been proven that worked-out pits lend themselves to a wide range of subsequent uses, but the majority of these uses have come about by accident rather than intent through planning. The natural regeneration that has occurred at many abandoned wet-pit sites indicates tremendous potential for increasing the nation's freshwater aquatic ecosystem resources, but this potential is not being fully used. Wetlands, in particular, have been neglected or overlooked in sand-and-gravel-mine reclamation planning.

Opportunities to balance use of an essential non-renewable resource with development of new resources may in time prove more valuable than the materials which have been extracted. Wetlands are in short supply and increasingly threatened. While creations are not a substitute for mature natural systems, they have the potential to initiate functional wetlands for future generations. For the immediate future, they can add to regional ecosystem diversity and provide habitat for many species of plants and animals. The hydrology of worked-out sand and gravel pits is typically ideal for wetland creation projects. What is needed is industry commitment, cooperation among government agencies, and support from an informed public.

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Nancy Street Wetland Enhancement: Assessment of Design and Construction

Prepared by the City and Borough of Juneau
Engineering Department
2006

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I. Introduction and Site Description

The Nancy Street Reclamation Project pioneers a creative strategy to partner development needs of a fill disposal site with conservation needs of wetland habitat and water quality enhancement. Six acres of wetlands along an impaired anadromous salmon stream became the site of fill disposal for a high school construction project in the Mendenhall Valley in Juneau, Alaska. The filling was designed to provide a platform for wetland emergent plantings and a meandering stream with riffles and deep water pools for juvenile salmon. For the City and Borough of Juneau (CBJ), the purchase of this parcel from a private landowner meant \$137,000 dollars to provide a disposal site only one mile from the construction site. Otherwise, the transport of the fill would require a three mile drive to Lemon Creek. The CBJ Engineering Department charged the contractor a lower rate for fill disposal and used this revenue to partially recover the cost of the land purchase (Appendix 3).

From the conservation perspective, this strategy met goals of a ten year old community watershed plan and the Juneau Wetland Management Plan to improve the habitat and water quality of the Nancy Street Wetland. In the 1950s and 1960s, the land was dredged to extract gravel deposits. The pit filled with groundwater that was high in iron and low in dissolved oxygen. The water from this system enters the Duck Creek system and ultimately flows into the valuable Mendenhall Wetlands. By filling to create an emergent wetland, the plants act as water filters and improve salmon and bird habitat.

The integration of a community participation component to the project raised support and enthusiasm for the creation of the wetland. Local volunteers planted willow and cottonwood in the wetland and various community groups donated time and money to the revegetation and the construction of a trail. Since the construction of the trail, nearby property owners have expressed approval and gratitude for the wetland reclamation.

This document summarizes the planning, design, and construction of the Nancy Street Wetland Reclamation Project. The site description presents the history and ecological problems found in the former gravel pit. Then the design and process of filling, revegetation and trail creation is discussed. Finally, a plan for monitoring and maintenance is proposed in order to measure the functionality and the success of the design and construction. Future plans to fill the Allison Pond as a wetland depend on the economic and ecological success of the reclamation as well as the public perception of the project. This document provides a guide to measure this success.

Site Description

The Nancy Street Wetland is located in the East Mendenhall Valley along Duck Creek, ten miles south of downtown Juneau. As part of a glacial valley, the land has been in flux for centuries, the most prominent example of this being glacial rebound. Only in the past century have people been continuously inhabiting this land. Juneau, as a gold rush town, formed in the late 19th century around two mines located near the downtown area. Prior to the arrival of the gold miners in Juneau, the Tlingit people had established a summer village a few miles north of the Mendenhall Valley. It is believed that the Tlingit only visited the valley occasionally. In 1885, the first record of land use in the valley identifies Daniel Foster as a homesteader. He raised animals and farmed the land at the mouth of the valley (Koski and Lorenz, 1999).

In the next 40 years, development of the valley occurred rapidly. A road was built to access a hydroelectric plant constructed near the glacier. Fox and mink farms, common in this part of Alaska in the 1920s, occupied much of the flat valley land. Salmon harvested from Duck Creek fed the animals. In the mid-1900s the Juneau airport was constructed on the land where Duck Creek flowed into the ocean. The creek was diverted to empty into the Mendenhall River. Along the creek bed, gravel pits were dug and homes, schools, and commercial areas were developed (Koski and Lorenz, 1999).

In the 1950s and 1960s the current Nancy Street wetland including land to the north and south of the site were dug for gravel extraction to support the rapid development of the city. After the mining was completed, the holes were left to fill with water. The pond then supported a stump dump and the neighborhood dumping of yard waste and many other household items. A private owner of the Nancy Street site sold the land to the City and Borough of Juneau to be used as a fill disposal site and reclaimed wetland. The northern portion of the site is still owned by the Church of the Nazarene

Photo from Koski and Lorenz, 1999.
Duck Creek, early 1900s



who has agreed to allow city access to the wetland for the reclamation project. From this early industrial history of the landscape, the only visible remnants are piles of gravel mining waste along the southern end of the Nancy Street Pond.

Currently, the Nancy Street Wetland is surrounded by dense suburban development with supporting infrastructure such as roads, schools, churches, and a commercial center. According to a study done by the Department of Parks and Recreation



Photo taken by Michele Elfers.

Nancy Street Pond 2005, prior to reclamation, Thunder Mountain is seen on the right

in Juneau, 11,000 people live in the East Mendenhall Valley with a higher than average density of 5 to 18 residential units per acre (1996). Immediately surrounding the Nancy Street Wetland is a church to the north, single family home developments to the east and south, and the collector road through the valley to the west that separates the wetland from a mobile home community. The dense development limits access to off street recreation for residents. It is difficult to move through this part of the valley without crossing streets or private property.

The Nancy Street Wetland site is seven acres of wetlands and uplands located on the East Fork of Duck Creek in the Mendenhall Valley in Juneau, Alaska. The East Fork drains 266 acres of land into the mainstem of Duck Creek. The entire Duck Creek Watershed drains 1.7 square miles of land into the Mendenhall River just upstream of the largest tidal wetland in Southeast Alaska. As part of this larger system, the water quality and habitat resources of this stream are vitally important to the ecosystem of Southeast Alaska. The Duck Creek Watershed has been recognized for its valuable habitat for salmon and its poor water quality. It is classified by the state as anadromous fish waters (Alaska Department of Fish and Game Catalog No. 111-50- 10500-2002) for its run of coho salmon. It is also designated an impaired water body by the Alaska 303(d) list of Impaired Waters, Alaska Department of Environmental Conservation. These two factors have motivated the city of Juneau and federal agencies to focus on the improvement of the stream system.

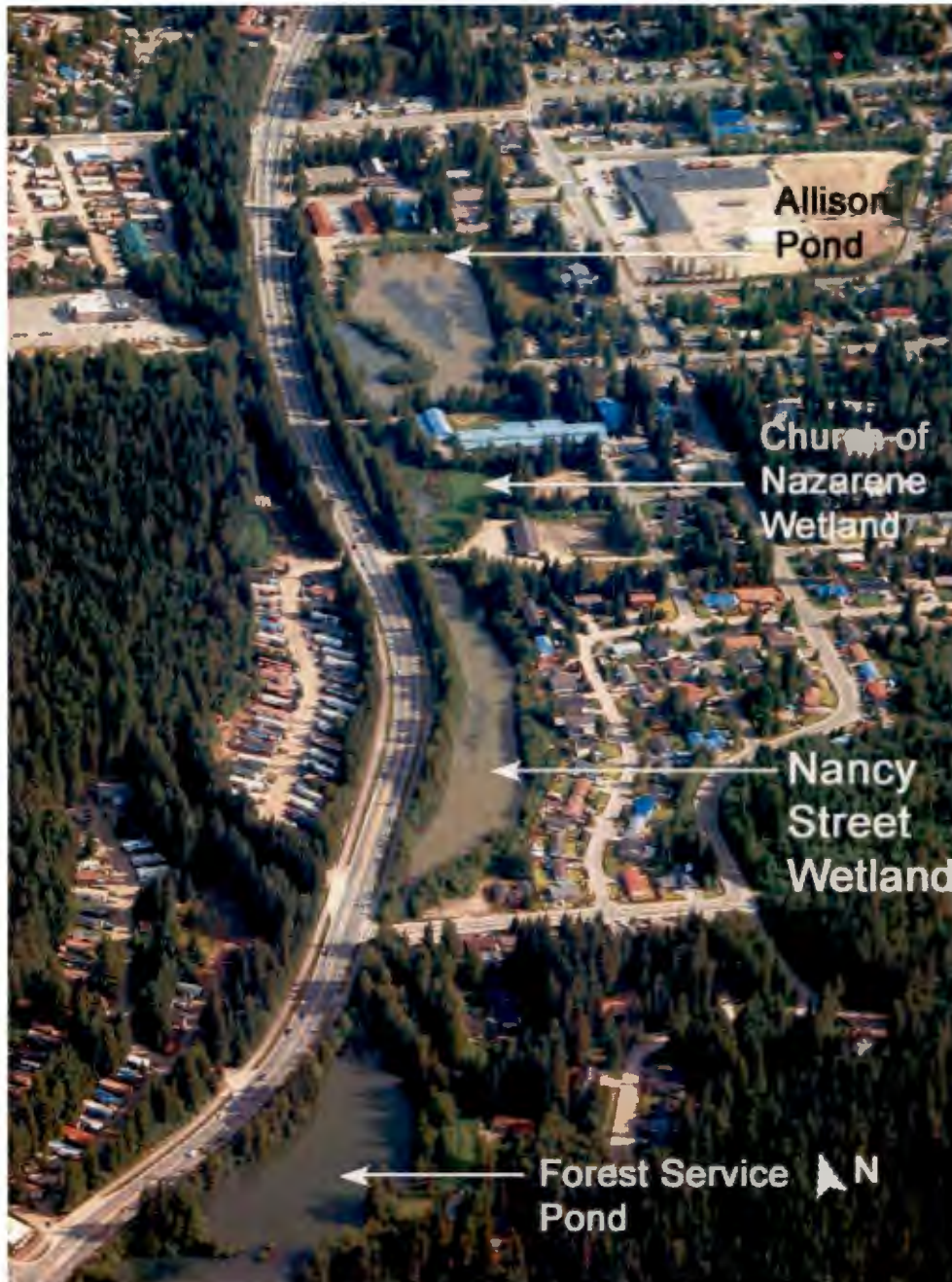


Photo from Koski and Lorenz, 1999.

The East Fork of Duck Creek flows through a chain of ponds and wetlands that were once gravel mines. Currently dense development crowds the ponds and wetlands into a narrow corridor along the main commuter road through the Mendenhall Valley.



Throughout its 250 year history as a watershed, the topography, stream flow and vegetation have massively changed due to glacial rebound, glacial succession and human influence. In its current state, the densely populated residential areas surrounding the wetland contribute to problems of turbidity, heavy metals, iron floc, fecal coliform and low dissolved oxygen rates within the watershed (Koski and Lorenz, 1999). However, many of the current water quality problems result from the geologic and cultural history within the Mendenhall Valley.

The known geologic history began during the Pleistocene Era 18,000 years ago. Metamorphosed igneous and sedimentary rock composed the Mesozoic bedrock under what is now the Mendenhall Valley. Glaciers advanced and covered the land with 4000-5000 feet of ice. When the glacier retreated, it carved out the depression that is now called the Mendenhall Valley. The glacial moraine deposited marine sediments, sand, gravel and organic materials in the valley. The most recent glacial advance in this valley began 700 years ago during the Wisconsin Age. The glacier advanced until 1750, and covered at least half of the current Duck Creek watershed. As the glacier retreated, Duck Creek gushed from the face and created an outwash plain as it flowed to the ocean. Several terminal moraines were deposited throughout the current watershed. As the glacier continued to melt, however, it formed a basin and a lake. The melt water from the glacier filled what is now Mendenhall Lake and spilled out into the Mendenhall River, cutting off the flow to Duck Creek. Today, groundwater is the primary source of the Duck Creek stream flow.

Since the retreat of the glacier, isostatic rebound has significantly impacted the landscape. In 1965, Hicks and Shofnos reported the rates of .05 feet/year uplift of land between 1936 and 1962. They believed the deglaciation of the land caused this uplift. The water table lowered relative to the surface of the land as a result of this process. Currently, low stream flow levels pose problems for fish habitat in Duck Creek. There is speculation that the isostatic rebound may contribute to this problem (Host and Neal, 2004).

In addition to isostatic rebound, the highly permeable soils in this area contribute to low flow. The soils characteristics of this flat landscape are common to alluvial plains and stream valleys: well to excessively well draining. The USDA, Soil Conservation Service, surveyed the soils in 1974 in the Juneau area and found along Duck Creek primarily soils in the He and Be series.

The He series of soils are composed of silty and sandy sediments that are generally waterlaid. For this reason, the soil is stratified. The stratification is generally 40 inches to 6 feet deep and is composed of silt, very fine sand, fine sand, deposits of organic matter, and coarse sand and pebbles. The depth to water table is usually greater than 4 feet, but can be less at times. HeA is the specific soil type in this series found along Duck Creek; this signifies slopes of 0 to 3 percent and a texture of Fine Sandy Loam.

The second series found in the Duck Creek watershed, the Be series, is also common on alluvial plains and terraces as well as hilly moraine landscapes. The gravelly sandy soils indicate an excessively well drained substrate. The first layer of the soil is very gravelly sand. The material 10 inches below the surface is 50 to 75 percent gravel and cobblestone by volume. Some large stones and boulders will be present. The water table, like the He series, is greater than 4 feet, but in some areas may be close to the surface. Flooding is rare in these soils; however, close to streams flooding may occur (Schoephorster and Furbush, 1974). Field testing close to the Nancy Street Wetland revealed a layer of approximately twenty inches of fine silt underlain by five feet of sand (Beilharz, 1998). This type of soil is highly permeable and contributes to the loss of stream flow to groundwater. In some reaches of Duck Creek, the stream goes dry or becomes puddles of standing water. Low flow destroys aquatic habitat and prevents aquatic life from moving through the stream.

The geologic conditions that create low flow in Duck Creek are compounded by the suburban land use within the watershed. The upper reaches of the stream flow through residential neighborhoods of primarily single family houses, while the lower sections abut commercial centers and the Juneau airport. According to studies done in the 1980s and 1990s, residential land use covers 540 acres of the watershed, commercial/industrial uses cover 282 acres, transportation 83 acres, and recreation/wetland cover 175 acres (TMDL, 2000). In 1969, the watershed was mapped to be 3.42 square miles. In 1988, it was estimated at 1.7 square miles. Riparian buffers and wetland areas have decreased as a result of the development (Koski and Lorenz, 1999). There is speculation that the moving of stream segments as a result of development may have moved the stream onto more permeable substrates. Stream flow is lost to groundwater when this occurs.

The water quality problems of turbidity, heavy metals, fecal coliform and low dissolved oxygen rates within the watershed in Duck Creek are largely caused by the suburbanization of the valley. Approximately 36 percent of the land cover is impervious surface and in 1997, there were a total of 39 road crossings over the creek. Stormwater runoff from the

impervious surface carries sediment, metals, oils and fluids from vehicles, and de-icing agents into the creek (Koski and Lorenz, 1999).

Within the Nancy Street Wetland, one of the most detrimental results of the gravel extraction is the increase in groundwater that is high in iron content seeping into the Nancy Street Pond and the other ponds along Duck Creek. Iron is commonly found in glacial outwash plains. While underground, it remains in a soluble form of Fe(II) because of the lack of oxygen in groundwater. When groundwater carries the iron to the surface, iron oxidizing bacteria are believed to oxidize the iron and create Fe(III). This oxidized form of iron is insoluble and settles on the ground surface as orange sediment known as iron floc (Megonigal, 2001). The process of conversion of Fe(II) to Fe(III) is detrimental to the Nancy Street Wetland because it robs the water of dissolved oxygen. Fish, macro invertebrates, and other animals require high levels of dissolved oxygen for survival. Additionally, the iron floc is small sediment that clogs interstitial spaces between gravel on the floor of the stream and prevents salmon eggs from accessing the oxygen and water flow they need to develop.

Wetland vegetation promotes the conversion of Fe(II) to Fe(III) and retains the iron floc in the roots of the plants. The roots of wetland plants leak oxygen into the soil. This zone surrounding the roots that contains oxygen is called the rhizosphere. Within the rhizosphere, Fe(II) is converted to Fe(III) by oxidizing bacteria. The Fe(III) precipitates to form a solid that sticks to the plant roots, called iron plaque (Megonigal, 2001). This characteristic of wetland plants creates the iron sink in the Church of Nazarene wetland. However, there may be some problems with this strategy in the long term. Wetland plants have been found to have high root turnover rates. Root turnover is the dying off of root hairs as part of a regular cycle of plant nutrient cycling and growth. Wetland plants are estimated to have 55% of their fine roots turnover annually (Gill and Jackson, 2000). If these roots are dislodged and carried downstream, the iron plaque may also be carried downstream, thereby negating the effects of the iron sink. Additionally, iron is known to diminish the uptake by plants of other metals or organic compounds. The iron plaque covers the root hairs, reduces oxygen in the rhizosphere, and minimizes the ability of microbes to interact with chemicals excreted by root hairs. This prevents the roots from uptaking other metals or organic compounds and reduces the phytoremediative effect of wetlands. The presence of iron could negate any other degradation of pollutants (Lanza lecture, 2005).

Historically, the Duck Creek Watershed was a rich habitat for coho, chum, and pink salmon. In its current state it provides limited habitat for coho spawning and overwintering as well as some habitat for birds and waterfowl (Koski and Lorenz, 1999). The Alaska Biological Monitoring and Water Quality Assessment Program Report rated Duck Creek the lowest of all streams studied in Southeast Alaska for habitat variables in 2003. The study measured dissolved oxygen, Ph, conductivity, temperature, taxa richness and stream structure characteristics. The mean habitat assessment value for urban streams was 157 and Duck Creek scored 96. Poor quality habitat resulting from an urban watershed with high erosion and low canopy cover combined with the geologic history have degraded habitat for the fish that once used the stream system.



Iron seepage in the Nancy Street Pond

The iron itself does not seem to harm fish and wildlife. However, the conversion process of Fe(II) to Fe(III) removes dissolved oxygen from the water. The photo is taken at Nancy Street Pond in July 2005.



Photos taken by Michele Elfers.

II. Design and Layout of Earthwork

The impetus for this partnership formed around the need for a waste disposal site for material extracted from the Mendenhall Valley high school construction project at Dimond Park. The initial design completed by Toner-Nordling Associates estimated the placement of 52,000 cubic yards of silty fill in the Nancy Street Pond. The proximity of the Nancy Street disposal site to Dimond Park ensured that this would be a cost effective fill site.

In 2004, Toner-Nordling worked with CBJ and the U.S. Fish & Wildlife Service to design the fill placement to achieve hydrologic, habitat and operational needs (See Figure 1 and 2). As part of a long-term plan to convert the upstream Allison Pond to a wetland through a similar filling process, this pond and the Church of the Nazarene water levels were designed to be controlled by an earthen dam at the southern end of the Nancy Street Wetland. The design of the Nancy Street fill and dam elevations were critical to the success of these three waterbodies. Additionally, the fill design determined habitat diversity. Low marsh and high marsh areas supported wetland emergent plants, deep water holes and the stream channel allowed for water flow and fish habitat, and the edge of the marsh maintained upland habitat. The need for efficient hauling of material required a haul road along the edge of the wetland and protruding fingers that would allow trucks access to the middle of the wetland to dump material. These access fingers became the low and high marsh habitat zones. The filling elevations below water surface elevation will be discussed in Chapter IV, Design and Layout of Vegetation.

In 2005, the design was revised by CBJ Engineering staff to enhance habitat and maximize fill placement (See Figure 3-7). As a former mining site, the extraction of gravel resulted in steep slopes at the edges of the pit. By modifying the design to increase the fill at the edges of the wetland, the slopes would be reduced to improve habitat and safety, as well as provide economic benefit through the disposal of fill. The modification reduced slopes on average from 30 to 60 percent to 7 to 15 percent throughout most of the wetland. Steep slopes were maintained where the stream channel curves at the edge of the pond to allow for overhanging vegetation that provides thermal protection for the water. The revegetation section discusses the variety of plant communities that are able to grow on the moderate slopes. The increase in fill along the slopes provided incentive for the expansion of the coho overwintering ponds by reducing the amount of fill added to these areas. The larger deep water areas benefit the juvenile coho salmon as well as providing more open water habitat for macro invertebrates.

To maintain the necessary water levels and provide a diversity of habitat, the U.S. Fish & Wildlife Service worked with R&M Engineering to design an earthen dam and outlet channel. The design of the dam called for an impermeable liner to wrap around the upstream side of the dam and fold back. The outlet stream design also included this liner to prevent water loss in the stream channel. The channel included a meander and two riffle sections for aeration. A combination of cobbles and gravel for spawning formed the streambed.

As an urban wetland, the heavy construction at the site required public meetings and compromises with adjacent property owners. The Church of Nazarene owns the northern portion of the wetland as well as the driveway needed to access the haul road (See Figure 1). To gain access to the wetland for filling, CBJ paved the Church's driveway and constructed the extension of their parking lot after construction along the northeast edge of the wetland. The property owners along the east edge of the wetland requested that the tree buffer be preserved along the Mendenhall Loop Road. For this reason, the haul road was built on the east edge of the wetland.

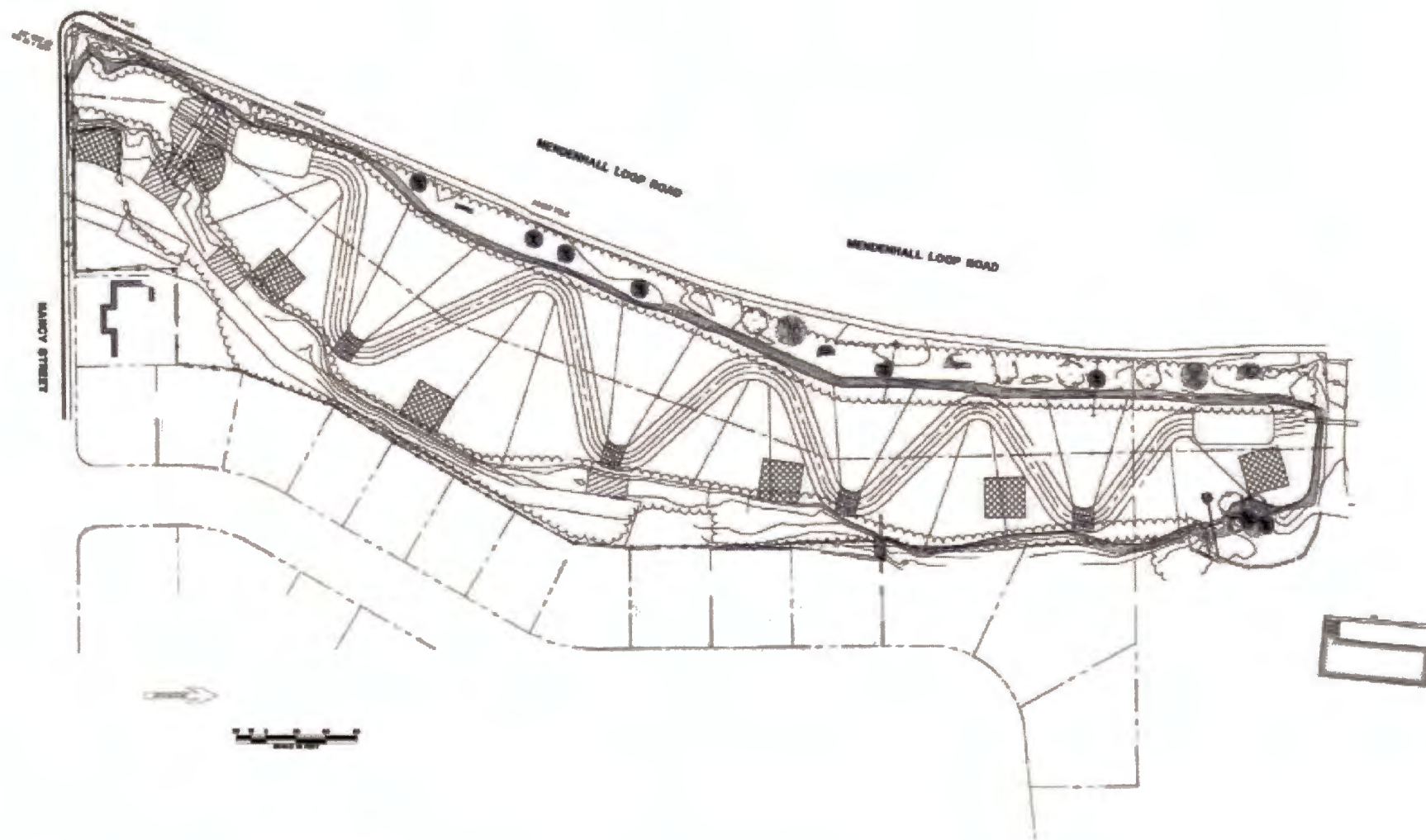


Figure 2. Initial Design for the Nancy Street Wetland Enhancement Project

R&M Engineering and Toner Nordling Associates worked with the U.S. Fish & Wildlife Service, the Natural Resource Conservation Service, and The Nature Conservancy to design the wetland enhancement. A meandering stream channel 4' deep flows from the North to the South through shallow marsh.

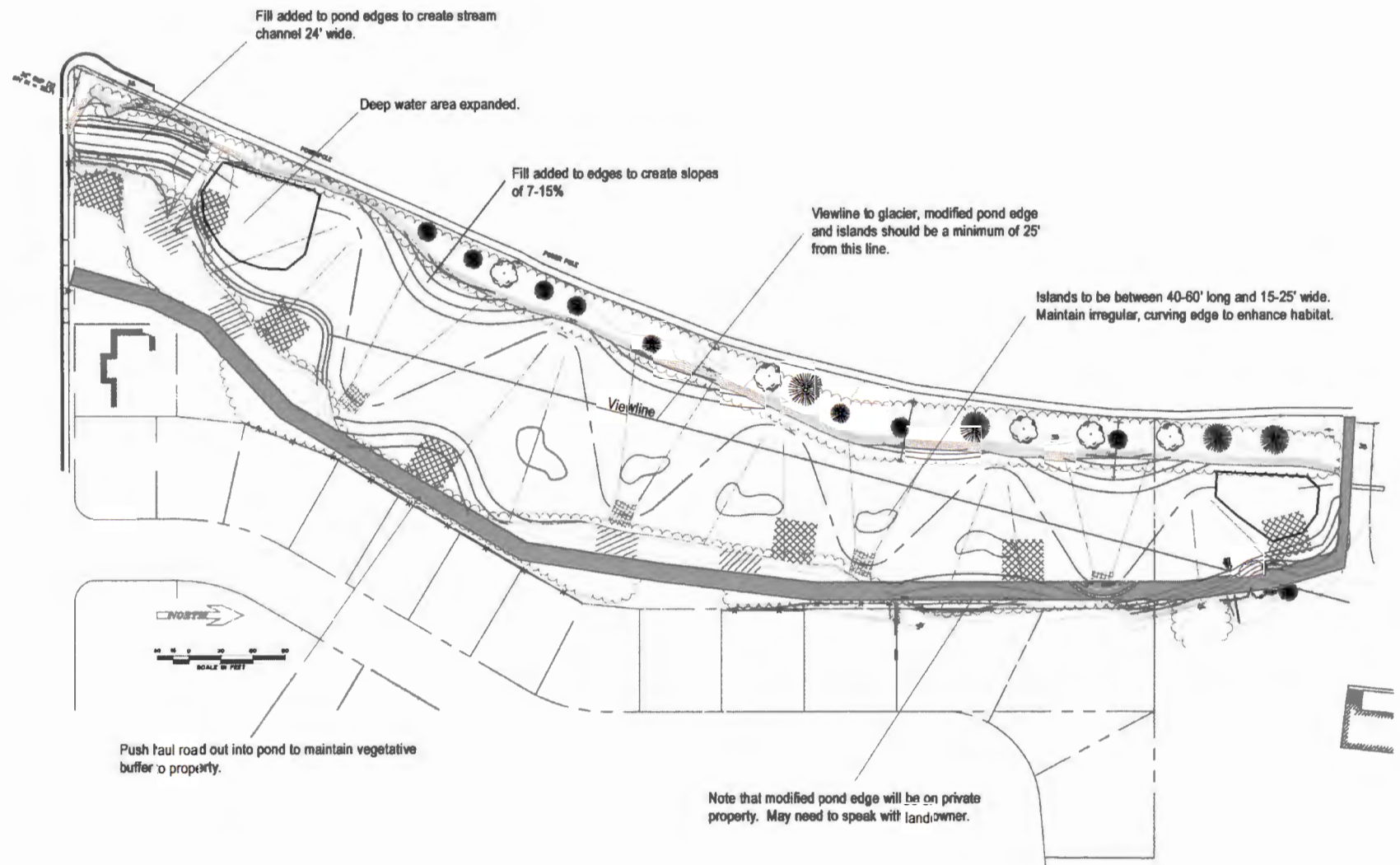


Figure 3. Modifications to the Nancy Street Wetland Design

In the summer of 2005, changes to the grading plan were proposed by CBJ to improve habitat by reducing the grade of the edges of the wetland. In anticipation of developing a trail plan, the islands were moved to allow for a view of the glacier.



Figure 4. Cross Section of the Coho Salmon Overwintering Pond

Fill is added to modify the steep wetland edge and cut is removed to allow the truck hauling road for the construction phase.



Figure 5. Cross Section of the Stream Channel, Marsh, and Island

Fill is added to create wetland emergent plant zones. The upland island will create protected bird nesting habitat.



Figure 6. Cross Section of the High marsh, Low Marsh, and Stream Channel

15



Figure 7. Cross Section of the Outlet Stream Channel

Fill and gravel is added to create a stream channel with salmon spawning habitat.

III. Earthmoving Process and Commentary

Based upon discussions among Glacier State, R&M Engineering, CBJ, and the U.S. Fish & Wildlife Service, the process of filling was undertaken by shaping the fingers around the stream channel without filling in the stream channel or coho overwintering ponds. The alternative, to fill the entire pond and then dig out the stream channel and deep ponds would result in much less habitat diversity and variety in landform.

Glacier State began hauling and placing fill in September, 2005 and placed 64,000 cubic yards of fill by May. Ten cubic yard capacity dump trucks were used requiring approximately 6400 trips. One excavator operator worked filling and spreading the material. The material excavated from the highschool site varied from silty, to rocky mineral soil, to sandy depending on the area of excavation. At the Nancy Street pond, the excavator operator completed the filling by section, working and finishing one finger at a time. For this reason, the type of fill varies by section. After the completion of each finger, a 6-8" lift of topsoil was added for re-vegetation purposes. The unscreened topsoil came from Stabler's Quarry and was delivered at no cost to the project as part of an EPA mitigation penalty to a local company. The topsoil quality was low in organic content and high in cobble rock and woody debris content.

At the time of filling, the dam was not constructed. The fingers were filled to approximately 1-4 inches above the summer water level. The heavy rainfall received during the summer helped to compact the fingers. Usually within two weeks of shaping a finger, it would compact and solidify enough to walk easily on it. In many areas, the rocky silty fill would compact with the rains, dry out and harden to a cement like substance.

The dam and outlet channel construction began in early July, 2006 and required approximately 1-2 weeks of work. Fill was placed through the entire area where the stream channel would be located except for a narrow channel along the west edge of the wetland. This channel maintained water flow from the wetland to the culverts. After filling the area, the stream channel was excavated according to survey markers placed by Toner-Nordling Associates. The liner was secured in place under the streambed and the cobbles placed on top of it. The dam was shaped with fill, but the liner was never folded across the upstream face of the dam. It was determined by the Glacier State Contracting, R&M Engineering, CBJ, and the U.S. Fish & Wildlife Service that the fill was stable enough to maintain its integrity. The water flow in the wetland is minimal and so erosion is not a concern.

After completion of the initial dam and outlet structures, the area was given two weeks to rest. After this period, it was observed that the liner in the stream channel was surfacing due to upwelling of air and water from the substrate. Also, the established dam elevation was determined to be high relative to the elevations of the fingers. This resulted in high water levels in the wetland emergent area which could affect plant growth.

Glacier State Contracting went back into the wetland, lowered the dam level by removing fill from under the liner, re-layed the liner, added more cobbles and gravel to settle it, and reworked the stream channel meandering form. After this second effort, the liner is less visible and the effect is much more aesthetically pleasing. Due to high precipitation levels, it is unknown if the lowering of the dam will result in lowered water surface elevation.

Early stages of filling in November, 2005.
Logs are used to support machinery as the
fill the fingers.

Photo taken by Neil Stichert.



Early stages of filling in November, 2005. Photo looks south at the filling of the fingers.
Photo taken by Alan Steffert.



Photos taken in April, 2006 by Michele Elfers.

Hay bales and silt fence used to control sediment at downstream end of wetland.



In May, 2006 the channel sinuosity begins to take shape.

Photos taken by Michele Elfers.





Digging of outlet stream channel, laying of impermeable fabric and initial stream shaping in July 2006.



Glacier State returned to the outlet channel and dam 2 weeks after initial construction and added more cobble, lowered the dam elevation, and reshaped the channel.

Photos taken by Michele Elfers.

IV. Design and Layout of Vegetation

To plan for the process of revegetation, native plant communities that will thrive in the conditions at the Nancy Street Wetland must be understood. There is little to no documentation or literature on the revegetation of wetland reclamation projects in Southeast Alaska. Interviews and qualitative evaluations of three constructed wetlands during the summer of 2005 form the foundation for the planning of the revegetation process. The Church of the Nazarene Wetland, the Floyd Dryden Middle School Wetland, and Kingfisher Pond are studied to understand the successes and failures of native species and transplants within constructed wetlands. The results are applied to the planning for the revegetation of the Nancy Street Wetland.

1. Church of the Nazarene (CoN) Wetland, Mendenhall Valley

The Church of the Nazarene Wetland is located immediately upstream of the Nancy Street Wetland. The two wetlands are separated by a culvert. Similar to the Nancy Street Wetland, most of the water comes from groundwater seepages which carry iron into the surface water. The soils, geologic and human use are the same for both wetlands. The Church of the Nazarene wetland was part of the gravel pit and then filled in 1997 as part of a wetland reclamation project headed by K Koski of the Duck Creek Advisory Group. The reclamation utilized 20,000 cubic yards of fill composed mostly

Church of the Nazarene Wetland

Photo taken by Michele Elfers.



of sand and gravel from a stormwater improvement project in the floodplain of Duck Creek. Approximately 1000 cubic yards of peat were placed on top of the fill in a 6-10 inch lift. To accomplish the filling and planting, the water level in the pond was lowered using pumps. The fill was then added to allow for a stream channel 2-4 feet below the water surface elevation that covered 20 percent of the wetland. The remainder of the wetland was graded to allow for three different levels: 50 percent of the wetland is high marsh at 0-3 inches below water surface elevation, 15 percent of the wetland is mid-level marsh at 0-6 inches below water surface elevation, and 15 percent of the wetland is low marsh at 6-18 inches below water surface elevation. Plants were chosen for revegetation based on the established elevations.

Low Marsh 6-18" water depth

Nuphar luteum,
Yellow Pond Lily
Potamogeton gramineus,
Grass-Leaved Pondweed
Sparganium emersum,
Narrow-Leaved Burrweed

Mid-Level Marsh 0-6" water depth

Carex aquatilis,
Water sedge
Equisetum fluviatile,
Swamp Horsetail
Caltha palustris,
Yellow Marsh Marigold
Menyanthes trifoliata,
Buckbean
Beckmania syzigachne,
American Slough Grass

High Marsh 0-3" water depth

Carex aquatilis,
Water Sedge
Equisetum fluviatile,
Swamp Horsetail
Caltha palustris,
Yellow Marsh Marigold
Menyanthes trifoliata,
Buckbean
Beckmania syzigachne,
American Slough Grass
Carex sitchensis,
Sitka sedge
Calamagrostis canadensis,
Bluejoint Reed Grass

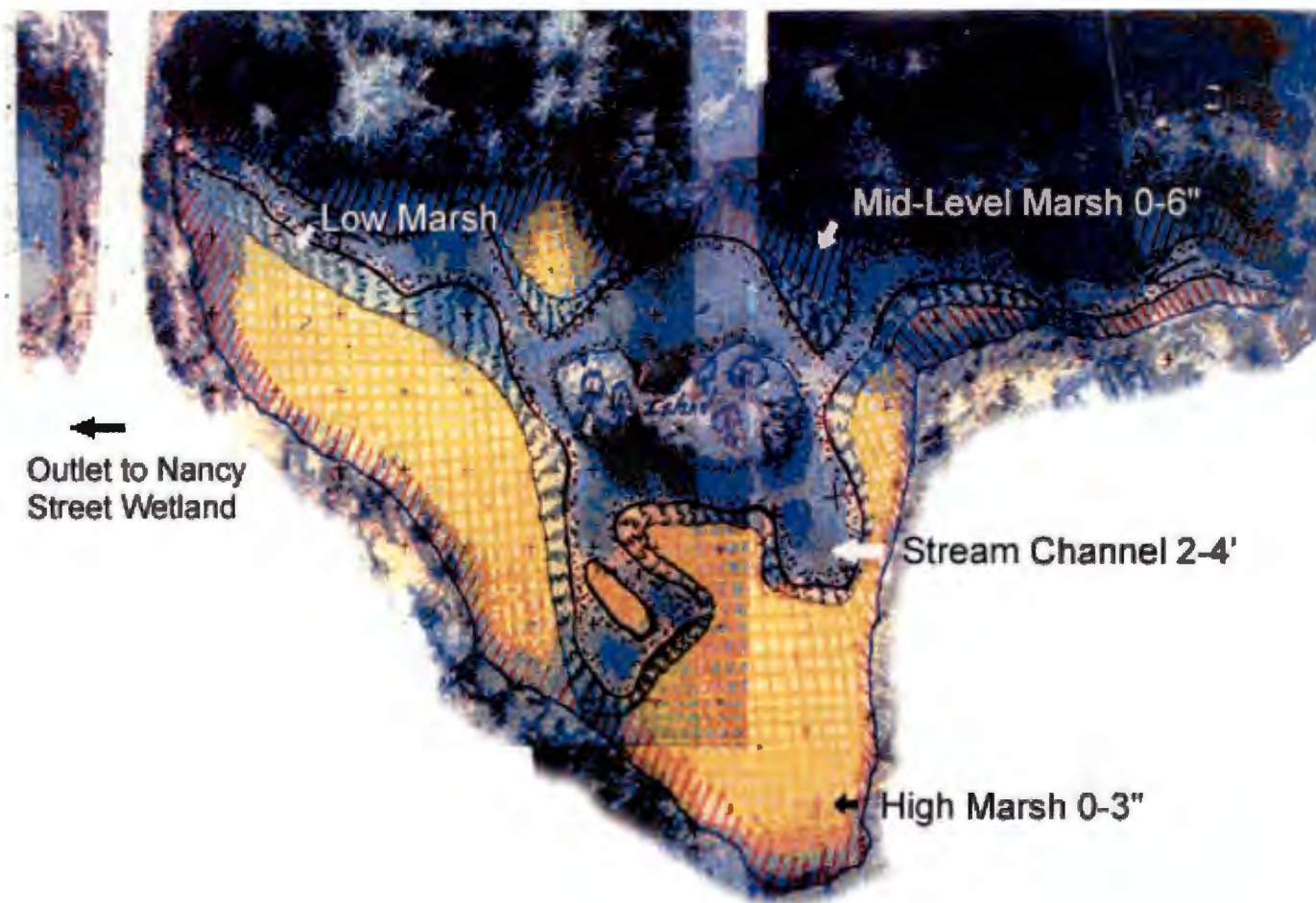


Figure 8. Church of the Nazarene Plan
Plan by K Koski.

The Wetland Enhancement Project for the Church of Nazarene Pond shows a grading plan that was developed to accomodate different plant communities. A meandering stream channel provides water to the marsh areas.

Table 1. Church of the Nazarene Plant Evaluation

site	water depth (cm)	% cover	live stems	description of quadrant	plant species
1a	7.5	90	57	saturated mud	horsetail, sitka sedge
1b	4	60	104	saturated mud	horsetail, sitka sedge
1c	3	95	14	saturated mud	horsetail, sitka sedge, blue joint grass
1d	14.5	35	17	standing water, iron oxide	horsetail, yellow marsh marigold
2a	5	75	50	saturated mud	horsetail, sitka sedge
2b	10.5	75	50	standing water	horsetail, sitka sedge
2c	6.5	35	37	saturated mud	horsetail, sitka sedge, western black willow, moss
2d	37.5	90	116	standing water, iron oxide	horsetail
3a	15	50	69	standing water	horsetail, sitka sedge, blue joint grass, bullrush
3b	35.5	95	89	standing water	horsetail, sitka sedge
3c	47.5	30	48	standing water	horsetail
3d	15.5	80	78	standing water	horsetail, sitka sedge
3e	12	20	9	standing water	sitka sedge
4a	13.5	40	90	standing water	carex, merten's sedge
4b	21.5	80	76	standing water	horsetail, sitka sedge
4c	22	40	32	standing water	horsetail

Table from "Inventory of Created Wetland and Baseline Data for Future Wetland Creation Sites". Hoferkamp, Lisa. Prepared for United States Fish and Wildlife Service, 2004-2005.

A combination of seeding, transplanting and planting of container grown stock were used for revegetation. During the transplanting, the plants that were dug from nearby wetlands were based more on availability and less on the planned species list. The plants were planted in rows four feet apart and with a spacing of two feet. Additionally, a local nursery planted upland species from container stock on a bank of the wetland (notes and plans from K Koski, 2005). Salix and Alder species were planted but did not survive. The wetland vegetation was counted and evaluated in 2004 by Lisa Hoferkamp, an assistant professor and a student at the University of Alaska, Southeast as part of a study of the water quality in the constructed wetland. Sixteen quadrants of .5 square meters were delineated within the saturated zone. Estimates of vegetative cover and an analysis of dominant species cover were performed.

The report estimates overall vegetative coverage of the wetland at 30-95 percent in 2004. This is an increase from an estimated 1 percent coverage in 1997 when it was first planted. The current plant community in the Church of Nazarene Wetland is dominated by Horsetail and Sitka Sedge with a few other species growing. According to the report by Lisa Hoferkamp, it is functioning as an iron sink and so the lack of diversity may not be a problem for this objective.

From the perspective that Nancy Street Wetland is part of ongoing experimentation and research into constructed wetlands in Southeast Alaska, expanding the diversity of the plant community may be beneficial to learn which types of plants colonize rapidly and if there are species that retain iron more efficiently. Species of Horsetail have long, thin root systems that may not be the most effective option for the trapping and retention of iron. Sedges, with dense fibrous root systems may be a better choice. Also, increasing the diversity of the plant community will allow for increased forage and habitat options for various species of birds and macro invertebrates.

2. Floyd Dryden Middle School Wetland, Mendenhall Valley

The Floyd Dryden Wetland is located north of the Nancy Street Wetland in the Mendenhall Valley. It occupies the post-glacial landscape but it does not have the same gravel extraction history. The constructed wetland is on school grounds and has been a wet area since the creation of the school. Surrounded by playfields and a building, it has become a detention



Photo taken by Michele Elfers.
View of the Floyd Dryden Wetland in July 2005

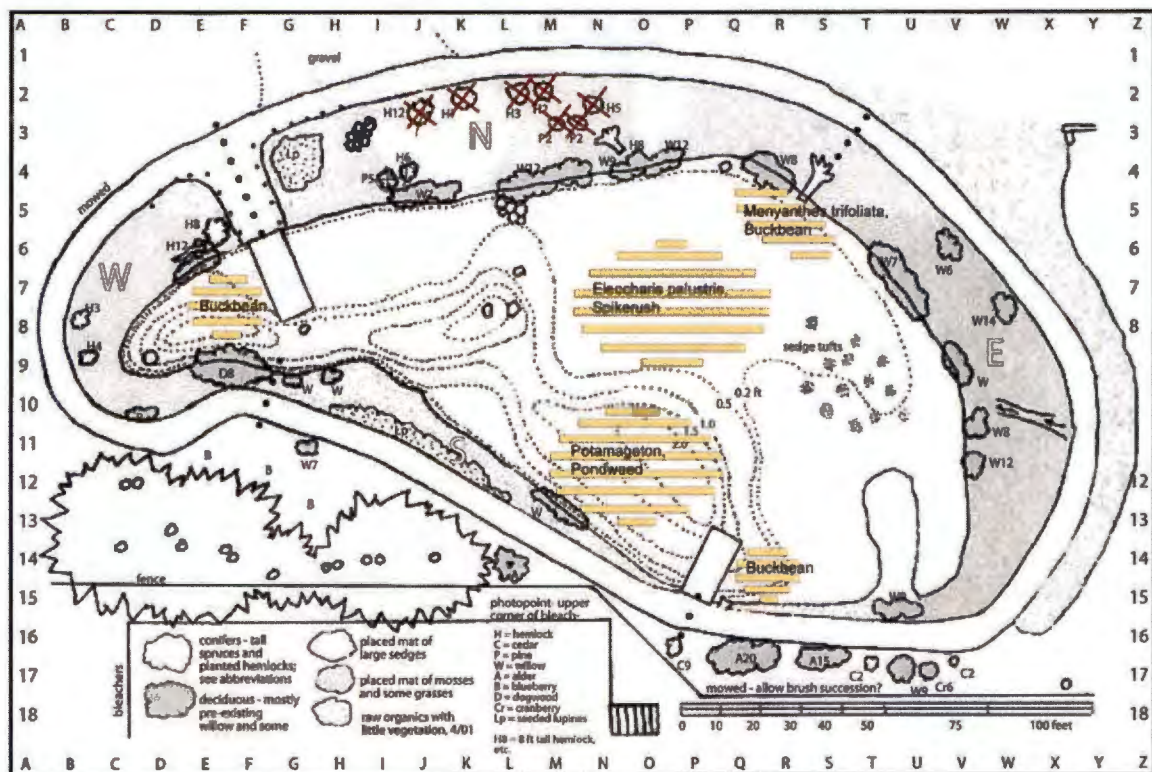


Figure 9. Floyd Dryden Pond

Original plan from Richard Carstensen of Discovery Southeast.

Observation of major species colonization in July 2005 shows that the Hemlocks and Pines did not survive, the Sedge, Spikerush, Buckbean, and Pondweed did very well.

area for stormwater. Between 1999 and 2001 the current wetland was graded and planted. The deepest area is roughly 450 square feet at a depth of 2 feet below water surface elevation and the grade rises to approximately 2.5 inches below water surface elevation within a large area of the wetland.

Richard Carstensen of Discovery Southeast, a nature education organization in Juneau, developed a vegetation plan for the wetland. Hemlock, Cedar, Pine, Willow, Alder, Blueberry, Dogwood, Cranberry, mats of Sedges, mats of Moss and Grasses, and Lupine seeds were used for the revegetation. Observation in August of 2005 showed that within the saturated zone the plants that are thriving are species of *Carex* (Sedge), *Equisetum* (Horsetail), *Eleocharis palustris* (Spikerush), *Menyanthes trifoliata* (Buckbean), and species of *Juncus* (Rush). Moving out of the saturated zone into the uplands, Willows, Alders, and Dogwood are thriving. The Hemlocks and Pines are either dying or are very small plants and there are very few Lupine plants. There is little open water in the wetland and a species of *Potamogeton* densely covers a significant amount of surface area in the deeper water areas.

The failure of the Hemlock and Pine trees may be due to the lack of adequate soil conditions. Hemlock requires a soil with a high organic content that is rare in the recently deglaciated Mendenhall Valley. Native Pine trees only grow in peat bogs in this part of Southeast Alaska. Sedges, Spikerush and Buckbean have thrived in this wetland at water depths of 2-6 inches for the Spikerush and Sedges and 2.5 inches for the Buckbean. These species are potential candidates for the Nancy Street Wetland.

It is important to note in this wetland that the deepest water is 2 feet and that there is little open water without vegetation. Potamogeton as well as other aquatic species such as Nuphar polysepalum are able to grow in 2 feet of water. In order to diversify habitat at Nancy Street and encourage the macro invertebrate population, open water is desired and the deep water levels must be greater than 2 feet deep. A study by Nelson, Roline, et al. shows that in constructed wetlands for wastewater treatment, the most productive habitat for invertebrates is open water with oxygen producing submerged plants. The least productive habitat is open water that has a continuous cover of duckweed and low dissolved oxygen levels (2000).

3. Kingfisher Pond at the Juneau Police Department, Lemon Creek

Kingfisher Pond at the Juneau Police Department is located at the mouth of a glacial valley, Lemon Creek. The primary source of water is groundwater supplemented by runoff as well as a small amount of brackish tidal water that enters through a faulty control structure at the outlet of the pond. As a reclaimed gravel pit, iron seepage is a problem in this wetland as well as pre-reclamation dumping of oil and other contaminants.



Photo taken by Michele Elfers.
View of Kingfisher Pond in July 2005

Between 2002 and 2003, the pond was filled and shaped to create a wetland and then planted with seeds, vegetative mats, and limited container stock plants. A section of the saturated zone was delineated to study the success of the seeding and the colonization of plants. The evaluation of the twelve study plots is recorded in Table 2. The evaluation is taken from observation in July 2005 of the plants growing compared to a seeding plan done at the time of revegetation. In the uplands area, Alder dominates, in some areas it is growing in dense thickets. There is also some Lupine, Dogwood, and

Highbush Cranberry in the upland areas. Both Tufted Hairgrass and Merten's Sedge have spread from saturated lowlands into well-draining upland areas. In the saturated areas to standing water, Small Leaf Bulrush, and Mare's Tail have colonized.

Table 2.
Kingfisher Pond
Plant Evaluation

Plot	Conditions	Seeded in 2000	Growing in 2005	Plot	Conditions	Seeded in 2000	Growing in 2005
1	Saturated	Merten's Rush	Merten's Rush	7	Moist ground, upslope	Hardtack Steeplebush	Merten's Sedge
			Merten's Sedge			Goat's Beard	Tufted Hairgrass
			Tufted Hairgrass				Lupine Alder
2	Saturated	Merten's Rush	Merten's Rush	8	Moist ground, upslope	Hardtack Steeplebush	Merten's Sedge
		Small Leaf Bulrush	Merten's Sedge				Tufted Hairgrass
			Tufted Hairgrass				Lupine Alder
3	Saturated	Control, no seeding	Merten's Rush	9	Moist ground, upslope	Control, no seeding	Merten's Sedge
			Merten's Sedge				Tufted Hairgrass
			Tufted Hairgrass				Lupine Alder
4	Saturated, beginning of upslope	Sawbeak Sedge	Merten's Sedge	10	Well-drained, upland	Tufted Hairgrass	Tufted Hairgrass
			Tufted Hairgrass				
5	Saturated, beginning of upslope	Control, no seeding	Merten's Sedge	11	Well-drained, upland	Tufted Hairgrass	Tufted Hairgrass
			Tufted Hairgrass			Meadow Barley	Meadow Barley
			Sawbeak Sedge				
6	Saturated, beginning of upslope	Merten's Sedge	Merten's Sedge	12	Well-drained, upland	Control, no seeding	Lupine
		Sawbeak Sedge					Alder

Data from observation in July 2005 and a Seeding Plan provided by the U.S. Fish & Wildlife Service.

A few species did not survive and many showed only one or two plants. *Spiraea douglasii*, or Hardtack Steeplebush was seeded but not growing on the site. This plant grows in southern Southeast Alaska, but it is not native to the northern part of the region. It will grow only in certain microclimates in this area and is therefore not hardy enough for a reclamation project. Meadow Barley, although native in this area, did not colonize successfully. The seeds may not have been viable, or the ground may have been too wet for the plants. This plant will not be recommended for revegetation of Nancy Street Wetland as literature suggests it is most successful in maritime areas (Pojar and Mackinnon, 1994). Sawbeak Sedge was only found in one area and may not be hardy enough to start from seed in a reclamation project.

By documenting the evaluation of these three constructed wetlands, interviews with local naturalists experienced in reclamation and revegetation projects, and literature pertinent to Southeast Alaskan plant communities, a table was created to document the successes, failures and potential for freshwater wetland species in reclamation wetlands. (See Appendix 1).

At the Nancy Street Wetland, plants have been selected based on the assessment and evaluation of their success in constructed wetlands in the region, experience of local naturalists, their ability to be transplanted or seeded, and their potential for the phytoremediation of iron. For the purpose of a planting design the plants were divided into zones based on the depth of water in which they grow. (See Table 3). The Nancy Street Wetland is designed with a water surface elevation of 28 feet. Although the Nancy Street Wetland is primarily ground water fed, runoff has been observed to affect water levels significantly in different seasons. However, the water level will fluctuate throughout the season with the rise and fall of precipitation rates. Rainfall increases between July and November and decreases between January and April. For this reason, the communities and water depths are general and meant as guidelines only. The zones are delineated on the wetland planting plan in Figures 10 and 11.

The deep water zone consists of the stream channel that flows from the inlet culvert to the outlet culvert as well as two deep pools at either end. This zone covers 55,000 square feet and is 28 percent of the total area to be revegetated. However, less than 5 percent of this area will be planted. Water will be 4 feet deep through most of this area with greater depths in each deep pool. This zone will be planted with *Potamogeton natans* (Floating Pondweed), *Sparganium angustifolium* (Narrow Leaved Burreed) , and *Nuphar polysepalum* (Yellow Pond Lily). The first two species were observed growing in the Nancy Street Pond prior to filling. Both are present upstream in the Church of the Nazarene



Figure 10. Planting Communities

The revegetation plan for the Nancy Street Wetland incorporates different plant communities based on elevation above the water surface. This revegetation plan was developed prior to the completion of the trail design.

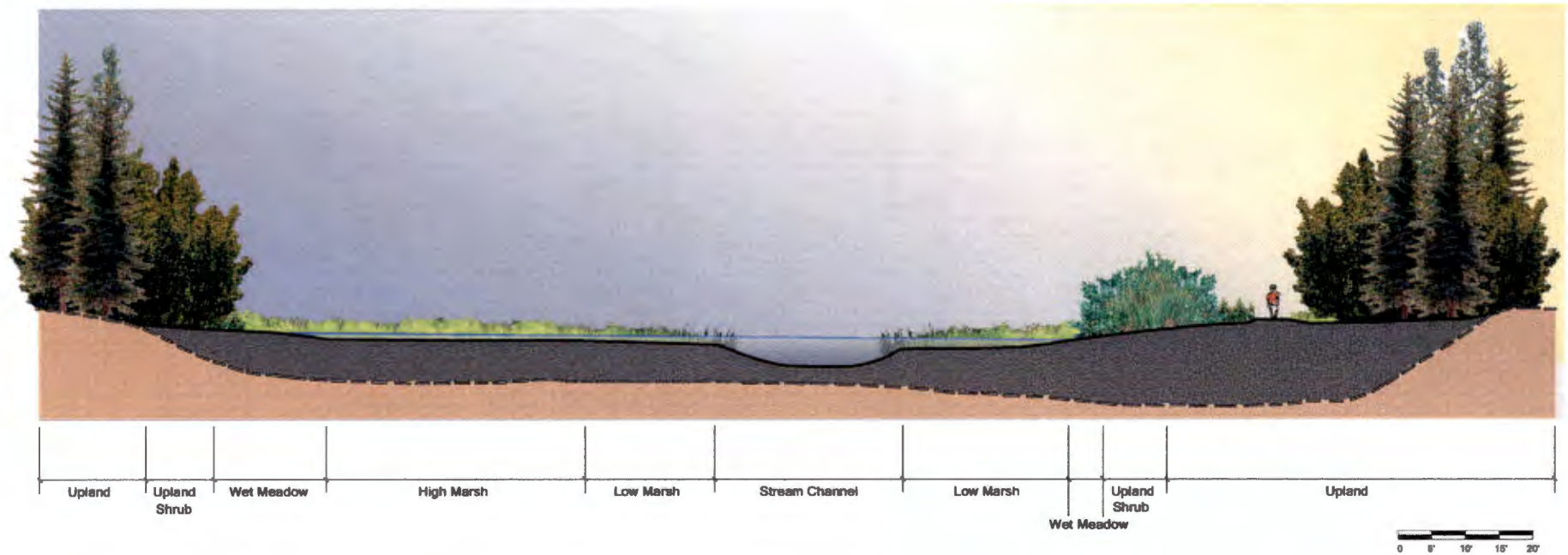


Figure 11. Typical Planting Zone Elevation

The revegetation plan for the Nancy Street Wetland is based on the elevation of the land above or below the water surface.

Pond. *Sparganium* is known to be a local food for muskrat. *Nuphar polysepalum* is found in a nearby pond downstream of the Nancy Street Wetland.

The low marsh zone covers 30,000 square feet and comprises 15 percent of the total area to be revegetated. The land between the stream channel and the high marsh ‘fingers’ is designed to the elevation of 27 feet to 27.5 feet. The plants in this zone include *Carex sitchensis* (Sitka Sedge), *Eleocharis palustris* (Spikerush), *Juncus mertensianus* (Merten’s Rush), and *Scirpus microcarpus* (Small Leaf Bulrush). All of these plants have been successful at colonizing constructed wetlands in Juneau and can be transplanted or started by seed. *Carex sitchensis* is one of the two dominant plants in the Church of the Nazarene Wetland. The dense root system of this plant may be capable of retaining large amounts of iron.

The stream channel winds around fingers of high marsh zone areas at an elevation of 27.5 feet to 28 feet. The high marsh zone encompasses 35,000 square feet and covers 18 percent of the total area to be revegetated. *Carex sitchensis* and *Eleocharis palustris* have exhibited the ability to survive in a variety of water levels. They will transition the communities from low marsh to high marsh zones. Other plants in this zone include *Carex mertensii* (Merten’s Sedge), *Juncus effusus* (Common Rush), *Lysichiton americanum* (Skunk Cabbage), *Deschampsia cespitosa* (Tufted Hairgrass), and *Menyanthes trifoliata* (Buckbean). All of these plants have been grown successfully in the constructed wetlands in Juneau. The *Lysichiton americanum* grows throughout Juneau in shaded wetland edges or stream banks. In the early spring it ‘blooms’ with a yellow spadex that is very attractive and provides food for animals. It has been transplanted successfully by naturalists in the region.

At the edge of the standing water zones is the transition zone of wet meadow. This zone is at an elevation of 28 feet to 29 feet and will be saturated most of the time and may flood during parts of the year. The wet meadow covers 12,000 square feet and comprises 6 percent of the total area to be revegetated. Many plants that can tolerate different water levels and periodic flooding are planted here. *Carex mertensii*, *Deschampsia cespitosa* ssp. *beringensis*, and *Juncus effusus* will all do well closer to the water’s edge. Moving up through this zone, grasses and flowering plants that do well in wet meadows are planted. *Calamagrostis canadensis* (Bluejoint Reedgrass), *Festuca rubra* (Red Fescue), *Viola palustris* (Marsh Violet), *Frittilaria camschatcensis* (Chocolate Lily), *Iris setosa* (Wild Flag), *Lupinus nootkatensis* (Lupine), and *Aquilegia formosa* (Columbine) thrive in saturated soils and provide color during the summer season.

The wet meadow zone and the upland shrub zone will be indistinguishable in many areas as many of these plants thrive in saturated to moist soils. The upland shrub zone is delineated from 29 feet to 30 feet and covers 11,500 square feet. It comprises 6 percent of the total area to be revegetated. Many grasses and flowering plants including *Deschampsia cespitosa* (Tufted Hairgrass), *Calamagrostis canadensis* (Bluejoint Reedgrass), *Festuca rubra* (Red Fescue), *Aquilegia Formosa* (Columbine), and *Lupinus nootkatensis* (Lupine) will form the transition from wet meadow to upland shrub. Also in this zone will be *Cornus stolonifera* (Dogwood), *Salix barclayii* (Barclay's Willow), *Salix sitchensis* (Sitka Willow), *Alnus viridus* (Sitka Alder), *Aruncus dioicus* (Goat's Beard), *Rubus spectabilis* (Salmonberry), and *Viburnum edule* (Highbush Cranberry). The *Salix*, *Alnus*, *Aruncus* and *Viburnum* species were all observed on this site prior to filling.

Above 30 feet elevation is the well-drained upland zone. The uplands to be revegetated cover 52,500 square feet and 27 percent of the total area to be revegetated. The plants include many of the shrubs from the upland shrub zone: *Aruncus dioicus*, *Cornus stolonifera*, *Rubus spectabilis*, *Viburnum edule*, *Alnus viridus*, *Salix barclayi*, and *Salix sitchensis*. Additional trees to be planted that exist elsewhere on the site are *Populus balsamifera* (Cottonwood), *Alnus rubra* (Red Alder) and *Picea sitchensis* (Sitka Spruce). An understory of grasses and herbaceous perennials include *Festuca rubra*, *Calamagrostis canadensis* and *Aquilegia formosa*.

From this general planting zone plan in Figure 10, a detailed planting design for the uplands and upland shrub zones was created. This allows for numbers of each species needed for transplant, purchase or seeding. The design strives to create diversity in plantings to allow for habitat diversity while also considering the experience of the visitor along the trail, and the relationship of the adjacent private property owners to the wetland and the trail. For example, Detail 5 in Appendix 5 shows clusters of *Rubus spectabilis*, *Cornus stolonifera*, and *Viburnum edule*. These shrubs fruit from mid summer into fall and provide food into the winter for birds and small animals. Also, a combination of *Picea sitchensis* groupings as well as deciduous trees of *Alnus* and *Populus balsamifera* allow for varied habitat for birds. Detail 3 in Appendix 3 shows a narrow buffer between the adjacent property owners and the trail and wetland. The large cluster of *Alnus* and *Picea* is in front of homes with fencing. This choice of trees will further separate the homes from the wetland and trail.

The diverse planting communities represent the ideal revegetation plan. However, the objective of using only native plants limits the availability and spectrum of species that can be obtained and planted in the wetland. Native plant

nurseries and native seed sources do not exist in Southeast Alaska. Small amounts of native seeds are available in the area from individuals who collect seed seasonally. A few native species of grasses are sold commercially in the northern part of Alaska. The best solution to the reclamation of wetlands in Juneau is to gather wetland seed in the years prior to the reclamation of the wetland and then start them in greenhouses based on the specific needs of the plants. This process works well if the reclamation of the wetland is planned at the time of the surface mining or land disturbance. However, the circumstances of the Nancy Street Enhancement Project do not allow for the gathering and starting of seed. Therefore, transplanting of plugs will be the major source of revegetation, with some hardwood cuttings and seeding.

V. Vegetation Process and Commentary

The planning and design of the revegetation process provided a guide for the actual implementation. However, the decision by the resource agencies to focus on transplanting of local plants to preserve local gene stock and minimize the purchase of plants largely determined the revegetation process. For a 6 acre revegetation, transplanting is feasible, but for a freshwater emergent wetland that is much larger, the limitations of transplanting may warrant a different strategy.

For the Nancy Street Wetland revegetation, the availability, accessibility, and diversity of source wetlands determined the process (See Tables 3,4). Source wetlands were selected in the Mendenhall Valley and Lemon Creek to minimize cost and driving time to Nancy Street. Additionally, only wetlands that were accessible for a crew with a vehicle were considered. The ownership of the wetlands ranged from CBJ land, U.S. Coast Guard land to private land. In all cases, permission for access and transplanting was granted. Another consideration in choosing source wetlands was the size of plant population present for the targeted species. The population had to be large enough to be able to remove a sizable quantity without decimating or affecting the source wetland population.

With all of these limitations, it was difficult to find appropriate wetlands to source plants. The majority of the Nancy Street wetland is freshwater marsh with emergent species, however in Juneau there is much more forested wetland habitat than emergent wetland. The revegetation of an emergent wetland much larger than Nancy Street would be very difficult using only transplants. The source wetlands used for Nancy Street should not be used again for at least two years and finding adequate populations of emergent species may be difficult. A potential source that exists for this type of wetland is along Department of Transportation (DOT) Right of Ways. There are many drainage ditches along Glacier Highway, particularly between Fred Meyer's and McDonald's in the Valley that are sedge and bulrush emergent wetlands. DOT utilizes SAGA crews for maintenance of Right of Ways to prune and remove shrubs and trees. An opportunity exists for a partnership to be formed with DOT where SAGA crews maintain and transplant simultaneously on future reclamation projects.

In addition to the transplanting of emergent wetland species, the revegetation included cuttings of willow and cottonwood, transplanting of berry shrubs and alder, and seeding. To accomplish these tasks, various sources of labor were used over a period of five months. Volunteers cut stakes in April and planted in June, paid SAGA workers transplanted emergent species and seeded in June and July, and paid Trail Mix workers transplanted trees and shrubs in August (See Table 4).

While the volunteers only worked for two days, their work in taking cuttings of willow, cottonwood and high bush cranberry was very important to the revegetation of the upland shrub and upland zones. Also, the involvement of community volunteers raised enthusiasm and support for the project. The volunteers were members of Full Circle Farms, a farm and distributor of organic produce in Juneau. The farm solicited volunteers through emails and donated \$5000 to the project. The cuttings were taken on April 8 with twenty volunteers. The group divided in three and went to sites near Back Loop Road. With pruners, 1000 Barclay's Willow stakes, 200 High Bush Cranberry stakes, and 75 Black Cottonwood stakes were cut. Full Circle Farms donated the use of their cold storage facility in Lemon Creek to hold the cuttings until planting. On June 7, fifteen volunteers planted the cuttings at Nancy Street. Many of the stakes were cut in half or thirds. Steel rods with mallets or sharp pointed shovels were used to plant single stakes or bouquets of 3-5 stakes. The High Bush Cranberry stakes all died in storage, however many of the willow and cottonwoods sent out roots and shoots.

For the next phase in planting, the U.S. Fish & Wildlife Service contracted a SAGA crew for 4 weeks. In 13 days, the crew worked approximately 650 labor hours. They accomplished 70% of the revegetation process by planting 3600 plugs, shrubs and small trees and seeding portions of the wetland. The crew developed efficient methods for transplanting and solved problems effectively throughout the four weeks. Each day, two workers stayed at the wetland and used an augur to dig holes in the soil for planting. The other six crew members went to the source wetland. To extract plants they found that a sharp shovel was most effective. Often they would take small mats and then cut them into plugs using a knife or sharp shovel. They suggested using a hand held shovel to cut the mats in the future. They found that bulb planters were time consuming and difficult to use in gravel or dense mud. To remove shrubs, pulaskis were the most efficient and shovels were used for trees. Despite the efficient work of the crew, the lack of proper gear and equipment at the start of the project slowed down progress. The crew needed shoulder length waterproof gloves, hip waders, rubber boots, and five gallon buckets for transporting plants. Additionally, throughout the four weeks, the augur would break down and slow progress. Better preparation and support for the crew is needed in the future.

SAGA accomplished most of the remaining revegetation work; however the grading and shaping of the outlet channel, earthen dam, and trail were not completed in time to finish the planting. Trail Mix crews transplanted alders and berry bushes into the upland and upland shrub areas and a small amount of sedges along the boardwalk and earthen dam using similar techniques as SAGA. Additionally, CBJ staff purchased and planted *Cornus stolonifera* plugs along the steep

northeast slope on the Church of the Nazarene property. These plants were purchased because of the significant benefit to the project and the lack of an appropriate population from which to take cuttings in Juneau. They grow rapidly in the Juneau climate, provide berries for birds, and control erosion with spreading rhizomes. CBJ also purchased and spread seed throughout the five month period of revegetation for erosion control and habitat enhancement.

To improve on the revegetation process for future projects, better planning for irrigation should be in place prior to transplanting. This summer in Juneau was very rainy with only a few periods of sunny dry weather. However, for two weeks in June, the sun came out and dried the high marsh area. During the revegetation period, the water level was approximately 1-3 inches below the high marsh elevation. The rocky and sandy topsoil combined with the silty fill dried in sunny conditions to form a cement like consistency. Watering was necessary to keep the plants alive during this period. SAGA crews used buckets and a garden quality gasoline powered water pump to irrigate the wetland. If the dry sunny weather persisted, these methods would not be able to keep the plants alive. To prevent this from happening on future projects a soil with a higher organic content would help to retain moisture better in dry conditions. Also, working with the Department of Public Works to obtain a permit for fire hydrant access would allow for an appropriate water source. Other strategies include the control of water levels to keep soil saturated while planting or the delay of planting until July when precipitation is more frequent.

Table 3: Recommended Plant Species

Actual Planted Species

Low and High Marsh		Low and High Marsh	
<i>Species</i>	<i>Common Name</i>	<i>Species</i>	<i>Common Name</i>
<i>Caltha palustris</i>	Marsh Marigold	<i>Caltha palustris</i>	Marsh Marigold
<i>Carex sitchensis</i>	Sitka Sedge	<i>Carex sitchensis</i>	Sitka Sedge
<i>Eleocharis palustris</i>	Spike Rush	<i>Eleocharis palustris</i>	Spike Rush
<i>Scirpus microcarpus</i>	Small Leaved Bulrush	<i>Scirpus microcarpus</i>	Small Leaved Bulrush
<i>Juncus mertensianus</i>	Merten's Rush	<i>Carex lyngbae</i>	Lyngby's Sedge
<i>Lysichiton americanum</i>	Skunk Cabbage		
<i>Menyanthes trifoliata</i>	Buckbean		
<i>Carex mertensii</i>	Merten's Sedge		
<i>Calamagrostis canadensis</i>	Blujoint Reedgrass		
<i>Deschampsia cespitosa</i>	Tufted Hairgrass		
Wet Meadow		Wet Meadow	
<i>Aquilegia formosa</i>	Western Columbine	<i>Aquilegia formosa</i>	Western Columbine
<i>Calamagrostis canadensis</i>	Bluejoint Reedgrass	<i>Calamagrostis canadensis</i>	Bluejoint Reedgrass
<i>Deschampsia cespitosa</i>	Tufted Hairgrass	<i>Deschampsia cespitosa</i>	Tufted Hairgrass
<i>Fritillaria camschatcensis</i>	Chocolate Lily	<i>Fritillaria camschatcensis</i>	Chocolate Lily
<i>Iris setosa</i>	Iris	<i>Iris setosa</i>	Iris
<i>Aconitum delphinifolium</i>	Monkshood	<i>Lupinus nootkatensis</i>	Lupine
<i>Dodecatheon pulchellum</i>	Shooting Star	<i>Hierchloe odoratum</i>	Sweet Grass
<i>Eriophorum angustifolium</i>	Cottongrass		
<i>Viola palustris</i>	Marsh Violet		
Upland Shrub		Upland Shrub	
<i>Alnus viridus</i>	Sitka Alder	<i>Alnus viridus</i>	Sitka Alder
<i>Aruncus dioicus</i>	Goat's Beard	<i>Aruncus dioicus</i>	Goat's Beard
<i>Cornus stolonifera</i>	Red Twig Dogwood	<i>Cornus stolonifera</i>	Red Twig Dogwood
<i>Rubus spectabilis</i>	Salmonberry	<i>Rubus spectabilis</i>	Salmonberry
<i>Salix barclayi</i>	Barclay's Willow	<i>Salix barclayi</i>	Barclay's Willow
<i>Salix sitchensis</i>	Sitka Willow	<i>Festuca rubra</i>	Red Fescue
<i>Viburnum edule</i>	High Bush Cranberry	<i>Rubus parviflorus</i>	Thimbleberry
		<i>Alnus rubra</i>	Red Alder
Upland		Upland	
<i>Alnus rubra</i>	Red Alder	<i>Alnus rubra</i>	Red Alder
<i>Alnus viridus</i>	Sitka Alder	<i>Alnus viridus</i>	Sitka Alder
<i>Cornus stolonifera</i>	Red Twig Dogwood	<i>Cornus stolonifera</i>	Red Twig Dogwood
<i>Picea sitchensis</i>	Sitka Spruce	<i>Picea sitchensis</i>	Sitka Spruce
<i>Populus balsamifera</i>	Black Cottonwood	<i>Populus balsamifera</i>	Black Cottonwood
<i>Rubus spectabilis</i>	Salmonberry	<i>Rubus spectabilis</i>	Salmonberry
<i>Salix barclayi</i>	Barclay's Willow	<i>Salix barclayi</i>	Barclay's Willow
<i>Salix sitchensis</i>	Sitka Sedge	<i>Rubus parviflorus</i>	Thimbleberry
<i>Viburnum edule</i>	High Bush Cranberry	<i>Festuca rubra</i>	Red Fescue

Table 4: Record of Planting Quantity, Source and Labor

Date	Species	Type	Quantity	Source	Labor
18-Apr	<i>Festuca rubra</i>	seed	10 lbs	Alaska Mill and Feed	USFWS
7-Jun	<i>Salix barclayi</i>	cutting	1500	Wren Drive/Back Loop Road	volunteer
7-Jun	<i>Populus balsamifera</i>	cutting	150	Behind Community Gardens	volunteer
13-Jun	<i>Carex lyngbae</i>	plug	130	Coast Guard Wetland	SAGA
14-Jun	<i>Carex sitchensis</i>	plug	450	Duck Creek by Superbear	SAGA
14-Jun	<i>Caltha palustris</i>	plug	40	Duck Creek by Superbear	SAGA
15-Jun	<i>Carex</i>	plug	300	Coast Guard Wetland	SAGA
15-Jun	<i>Carex sitchensis</i>	plug	375	Church of Nazarene Wetland	SAGA
15-Jun	<i>Carex sitchensis</i>	plug	200	Church of Nazarene Wetland	SAGA
19-Jun	<i>Calamagrostis/ Deschampsia</i>	plug	164	Lemon Creek Wetland	SAGA
19-Jun	<i>Fritillaria camschatensis</i>	plug	34	Lemon Creek Wetland	SAGA
19-Jun	<i>Hierchloe odoratum</i>	plug	31	Lemon Creek Wetland	SAGA
19-Jun	<i>Iris nootkatensis</i>	plug	31	Lemon Creek Wetland	SAGA
20-Jun	<i>Calamagrostis/Deschampsia</i>	plug	276	Lemon Creek Wetland	SAGA
20-Jun	<i>Fritillaria camschatensis</i>	plug	83	Lemon Creek Wetland	SAGA
20-Jun	<i>Hierchloe odoratum</i>	plug	49	Lemon Creek Wetland	SAGA
20-Jun	<i>Iris nootkatensis</i>	plug	60	Lemon Creek Wetland	SAGA
21-Jun	<i>Rubus spectabilis</i>	transplant	200	Duck Creek by Superbear	SAGA
22-Jun	<i>Carex sitchensis</i>	plug	20	Duck Creek by Superbear	SAGA
22-Jun	<i>Picea sitchensis</i>	transplant	8	DOT ROW Loop Rd	SAGA
23-Jun	<i>Lupinus nootkatensis</i>	seed	unweighed	US Forest Service, Ketchikan	NRCS
26-Jun	<i>Eleocharis palustris</i>	plug	100	Coast Guard Wetland	SAGA
26-Jun	<i>Scirpus microcarpus</i>	plug	100	Lemon Creek Wetland	SAGA
27-Jun	Thimbleberry	transplant	55	DOT land on channel by GCI	SAGA
27-Jun	<i>Rubus spectabilis</i>	transplant	35	Duck Creek by Superbear	SAGA
29-Jun	<i>Carex</i>	plug	175	DOT ROW north of SE Vet	SAGA
29-Jun	<i>Festuca rubra</i>	seed	20 lbs	Alaska Mill and Feed	SAGA
29-Jun	<i>Calamagrostis canadensis</i>	seed	10 lbs	Alaska Mill and Feed	SAGA
29-Jun	<i>Deschampsia cespitosa</i>	seed	10 lbs	Alaska Mill and Feed	SAGA
30-Jun	<i>Cornus sericea</i>	plug	216	Nat's Nursery, BC	CBJ
30-Jun	<i>Festuca rubra</i>	seed	10 lbs	Alaska Mill and Feed	CBJ
30-Jun	<i>Calamagrostis canadensis</i>	seed	10 lbs	Alaska Mill and Feed	CBJ
30-Jun	<i>Deschampsia cespitosa</i>	seed	8 lbs	Alaska Mill and Feed	CBJ
5-Jul	<i>Carex</i>	plug	490	DOT ROW north of SE Vet	SAGA
6-Jul	<i>Carex</i>	plug	245	DOT ROW north of SE Vet	SAGA
20-Jul	<i>Picea sitchensis</i>	transplant	?	DOT ROW Loop Rd	CBJ
20-Jul	<i>Festuca rubra</i>	seed	20 lbs	Alaska Mill and Feed	CBJ
20-Jul	<i>Calamagrostis canadensis</i>	seed	5 lbs	Alaska Mill and Feed	CBJ

cont. Table 4: Record of Planting Quantity, Source and Labor

Date	Species	Type	Quantity	Source	Labor
20-Jul	<i>Deschampsia cespitosa</i>	seed	5 lbs	Alaska Mill and Feed	CBJ
24-Jul	<i>Cornus stolonifera</i>	transplant	17	old Fred Meyer landscape	CBJ
26-Jul	<i>Rubus spectabilis</i>	transplant	24	Duck Creek by Superbear	Trail Mix
7-Aug	<i>Carex sitchensis</i>	plug	50	Church of Nazarene Wetland	Trail Mix
8-Aug	<i>Alnus</i>	transplant	100	Duck Creek by Superbear	Trail Mix
9-Aug	<i>Rubus spectabilis</i>	transplant	60	Duck Creek by Superbear	Trail Mix
15-Aug	<i>Festuca rubra</i>	seed	40 lbs	Alaska Mill and Feed	CBJ
15-Aug	<i>Deschampsia cespitosa</i>	seed	10 lbs	Alaska Mill and Feed	CBJ
		Total Quantity	4993		



Above: Volunteer planting of willow and cottonwood cuttings in June. Right: Cuttings send out leaves in August.



Above: SAGA extracts sedges from a wetland in Lemon Creek. Right: Transport of sedges and marsh marigold in buckets.



Above: SAGA plants wet meadow grasses.
Right: Low marsh and high marsh sedges
and bulrushes.



Left: Alders transplanted along
stream channel.

Photos taken by Michele Elfers.

VI. Trail Design and Construction

The design and development of a community trail through the wetland has become an important component to gaining public approval and support of the project. Adjacent landowners initially viewed the reclamation project as disruptive, but through the process of filling, planting and trail construction, many neighbors and community members have expressed that the reclamation is an improvement to the neighborhood. It offers recreational opportunities for a neighborhood of streets and private property and it allows access to a successional landscape with a fantastic view of the Mendenhall Glacier (See Figure 12-14).

CBJ applied for a Recreational Trails Grant through the Department of Natural Resources, Division of Parks and Outdoor Recreation. To administer the grant funds, the CBJ Engineering Department, the CBJ Department of Parks and Recreation, and Trail Mix formed a partnership to accomplish the administration, construction and management of the trail. The Engineering Department was responsible for the design, permitting and construction oversight, the Department of Parks and Recreation provided equipment, design review, and maintenance and management of the completed trail, and Trail Mix constructed the trail and administered the grant.

The trail construction began in July 2006 and continued through August. A few details will be completed in late fall and early spring such as the installation of trash cans and interpretive signage. Silty gravel forms a compact base for the six foot wide trail. A deck is sited at the south end to capture a remarkable view across the wetland of the Mendenhall Glacier. An island at the north end is accessed by a bridge and boardwalk and offers a bench and viewing point south. Eight steel pilings and a frame of treated lumber support the observation deck. The decking on the observation deck and boardwalk, railings, and benches are recycled plastic lumber. The 70' bridge is a steel gangway removed over the summer from a CBJ Ports and Harbors project.

Many of the materials and labor were donated to allow completion of the trail with only grant funding. The bridge and benches were donated by CBJ Ports and Harbors, the rough grading and shot rock placement on the trail was donated by Glacier State Contractors, and the construction of the observation deck was done by the U.S. Coast Guard Engineers in Juneau.



Figure 12. Trail Master Plan

The trail design includes the extension north of the trail to the Church of Nazarene Wetland. This extension was not constructed. Currently, the trail connects to the Mendenhall Bike Loop Path.

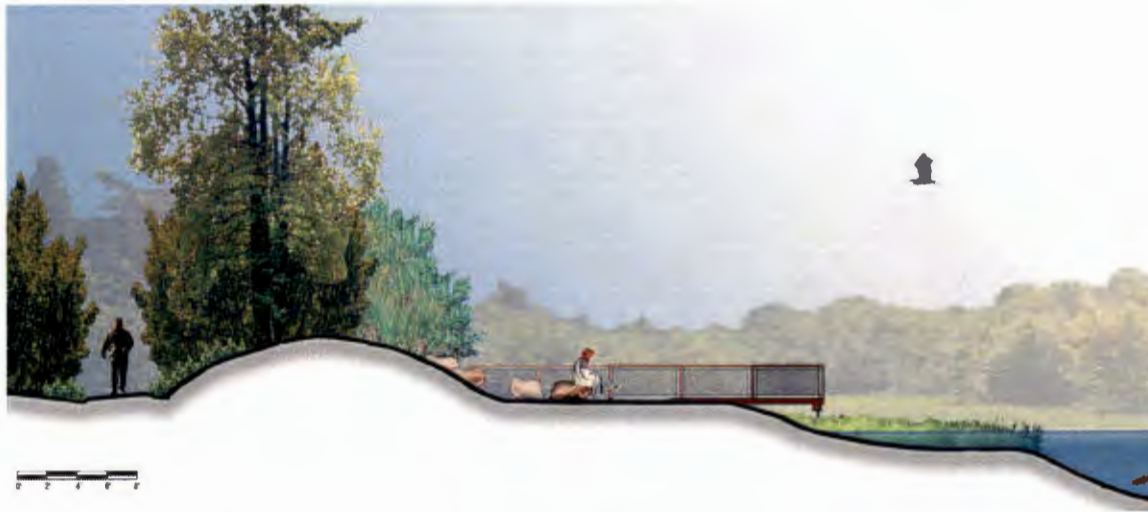


Figure 13. Cross Section of the Observation Deck

The deck is sited to allow for close viewing of open water and to capture a magnificent view of the Mendenhall Glacier as a backdrop to the wetlands.



Figure 14. Cross Section of the Bridges

The two bridges across the wetland are connected by an island. The first is a 25' wooden boardwalk across emergent wetlands, the second is a 70' steel bridge with metal grate decking across the stream channel. On the island, a gravel seating area with boulders allows for resting and wildlife viewing.

The constructed trail represents Phase I of the Duck Creek Greenway Trail that will extend through the Nancy Street Wetland and the upstream Church of Nazarene Wetland and the Allison Pond (See Figure 15). Ultimately, it will connect from the north and south to the Under Thunder trail to form a loop. The creation of a trail that links the three wetlands will raise awareness of the ecological connection for fish, birds and other wildlife among these stepping stone habitats.

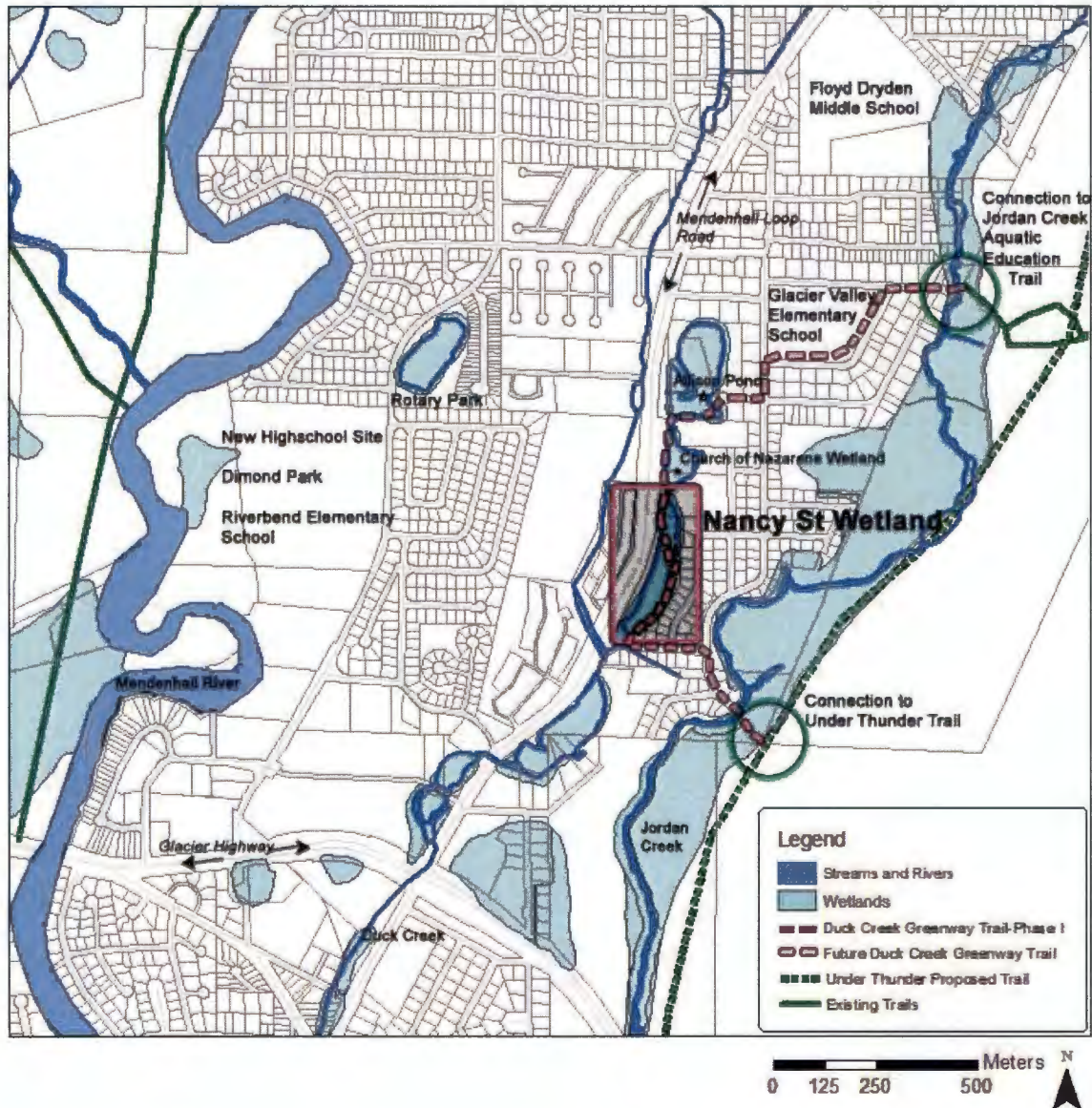


Figure 15. Duck Creek Greenway Trail Master Plan.

The trail through Nancy Street will connect the three former gravel pits to provide neighborhood connections, recreational opportunities, and to increase awareness of the ecological connections among the enhanced wetlands.

Glacier State shaped the rough trail bed and placed shot rock in May.



Trail Mix hauls gravel to build the trail across the island in August.

Trail Mix drives pilings for the observation deck and shapes the gathering area.





The finished bridge and boardwalk cross the wetland to an island with a bench for viewing.

Right: The steel gangway donated by CBJ Ports and Harbors extends from the northwest end of the trail to the east side. Trail Mix built new cedar rails for safety.



Below: The finished observation deck and gathering area.



VII. Monitoring and Maintenance

The monitoring and maintenance plan for the Nancy Street Wetland addresses issues of survival and performance of wetland vegetation, changes in wetland composition, the control of invasive species, and the general upkeep of the trail and interpretive areas. The plan for monitoring of wetland vegetation is informed by a plan for wetland monitoring in Bellevue, Washington by Herrera Environmental Consultants, a guide to “Wetland Restoration, Creation, and Enhancement” written by various federal resource agencies, and research done by Elzinga, Salzer, and Willoughby in Measuring and Monitoring Plant Populations. The plan for trail maintenance is based on observations of wetland trail requirements over time in Juneau.

Monitoring Plan

It is proposed that this work be performed in conjunction with the existing UAS water and fish monitoring plan and the data be combined into one report.

1. Establish plots in different plant community zones to measure species composition, aerial cover, and vegetative density. Measure water level above ground surface. Take measurements once per year in late July from 2007 to 2012. See Appendix XX for plot locations.
 - a. Plot 1 Upland - monitor a 5 meter radius around stake.
 - b. Plot 2 Island – monitor the entire island.
 - c. Plot 3 Emergent – monitor a 1 meter radius around stake.
 - d. Plot 4 Emergent – monitor a 1 meter radius around stake.
2. Establish 4 photopoints that capture each plot and 2 photopoints that capture emergent wetland, one from the observation deck looking north to the glacier and the second from the bench on the island looking south to the observation. See Appendix 2b and 2c for photopoints and 2006 photographs.
3. Complete table of information and draw maps recording the location, density and cover of each plot. See Appendix 2a for baseline data and sample table.

Maintenance Plan

The Nancy Street Wetland will be transferred to the CBJ Parks and Recreation Department for management. This department and Trail Mix can coordinate to maintain the trail using the excess trail grant money.

1. Prune and clear shrubs and trees obstructing passage along the trail.
2. Empty garbage cans, refill doggy bag dispenser and remove garbage from the trail.
3. Clear drainage culverts along trail.

VIII. Conclusion

The Nancy Street Wetland Enhancement Project offers an economically feasible, ecologically beneficial, and socially supported model of wetland reclamation for municipalities. Based on the data and assessment of the design and construction presented in this report, the project has been successful in the aspects of earthwork, transplanting, cost benefit and public participation. However, areas of improvement include the refining of final water levels, soil quality, and irrigation strategies during transplanting.

The design and implementation of the filling process determined largely the improvement of habitat, the efficiency of operations, and the accuracy of the as-built site to the design. By filling and completing each finger and section of the wetland individually, greater variety and attention to each landform was introduced. The other option, filling the entire site and then returning to dredge the stream channel would have resulted in less diversity of habitat and less attention to the design details. There is some concern that the water level is higher than the designed level. However, the rainfall was higher than average in 2006, so it is difficult to tell if the water levels in the wetland will drop. Designing elevations to within 3 inches to allow for necessary habitat for plants and wildlife is very difficult on a project where over 60,000 CY of fill are being placed. For this reason, designing a dam with adjustability to account for the discrepancy in water level would improve the function and success of the project.

The high rainfall this summer maintained a moist planting substrate throughout most of the summer. In late June, a sunny period of two weeks revealed the problems that would have been encountered had it been a drier summer. The soil dried and cracked around the newly transplanted plants and a hasty irrigation plan of buckets and a garden pump with hose was used to keep the plants alive. An irrigation plan should be in place prior to the revegetation phase. Tapping into city water through fire hydrants, or a private source are two potential solutions. Also, improving the quality of topsoil will improve moisture retention. The mineral topsoil had little organic content and was full of rock and cobble. Plant survival in 2007 will reveal whether higher quality topsoil is needed. At the end of the 2006 planting season, there was approximately 70% survival rate of transplanted species. Based on this estimate, the revegetation effort was very successful.

In addition to the improvement of fish and wildlife habitat, the other measure of success of the Nancy Street Wetland Enhancement is the strong base of public support. Throughout the construction process, volunteers donated time,

materials and money to the project. Many neighbors began to come out during the summer construction and comment on how happy they were about the project.

As a result of the success of this project, a similar process is planned for the Allison Pond upstream of the Nancy Street Wetland. The process will be improved based on this assessment and applied to the Allison Pond site needs. The CBJ has saved the community money by pioneering this alternative option to fill disposal. The support of the U.S. Fish & Wildlife Service and the Natural Resource Conservation Service has enhanced habitat for fish and wildlife and reclaimed a valuable community resource.

Plant List for Freshwater Wetlands											
Scientific Name	Common Name	Recommendation by	Water Level	Height	Transplant Potential	Seed Potential	Wildlife Benefits	Human Benefits	Iron phytoremediation	Liabilities	Other Issues
Deep Water											
<i>Caltha natans</i>	Floating Marsh Marigold	Book	aquatic floating	1-3'				attractive flower			floats or creeps in mud, stolons root at nodes
<i>Nuphar polysepalum</i>	Yellow pond-lily	Patti Krosse, Ed Buyarski	3-4' average water depth, up to 6' stalk		successful, use fork or clam digger to dig up entire root, or monofilament tied to root with rock to get plant it.		food, habitat for fish, cover for ducklings, frog habitat	very attractive open water flower		Patti-very difficult to dig roots, often extensive, and hard to get roots back into the water completely	found in pond near Superbear, very shallow water, may be easy to remove
<i>Potamogeton natans</i>	Floating Pondweed	Observed at Nancy Street	aquatic floating from bottom 3-8'		yes		very valuable food source for mallards and other marsh birds		Existed in Nancy Street Pond so it is tolerant of iron	In CoN it forms a dense cover in open water areas, too much shade and it may limit macroinvertebrate population	present at Nancy Street Pond prior to filling, present at CoN, Floyd Dryden, becomes very dense in areas, keep deep water areas in pools if open water habitat is desired
<i>Sparganium angustifolium</i>	Narrow-Leaved Bur-reed	Observed at Nancy Street	aquatic floating	1-3'			nesting, cover, seeds, muskrats		Existed in Nancy Street Pond so it is tolerant of iron		present at Nancy Street Pond prior to filling
Marsh											
<i>Caltha palustris</i>	Yellow Marsh Marigold	Book	wet areas with slow running water	variable	divide rootball	seed direct sow in fall		attractive flower			limited survival at CoN
<i>Carex mertensii</i>	Mertens's Sedge	Patti Krosse	upland, more dry conditions, in transition zone	4'	one of the easiest types of carex to transplant	yes		attractive colorful, large spikes	dense root system may hold more iron	Carex more difficult to dig roots	germinates easily, some found in CoN, planted in Kingfisher Pond, growing very well in low saturated soil, but also growing on wet slopes.
<i>Carex sitchensis</i>	Sitka Sedge	Observed at CoN Wetland	emergent	1-5'	yes	yes	excellent waterfowl habitat		dense root system may hold more iron	hard to dig up because of root system	transplanted into CoN, excellent survival rate
<i>Carex stipata</i>	Sawbeak Sedge	Observed at Kingfisher Pond	marsh and bog	1-3'		yes		attractive seed head	dense root system may hold more iron		planted in Kingfisher Pond (seed), found only a few plants, did not do well
<i>Eleocharis palustris</i>	Spike Rush	Observed at Floyd Dryden Wetland	in shallow standing water, 1-2"	8-24"				attractive head			spread very well in Floyd Dryden Pond and has an attractive head and reddish hue to the stems
<i>Equisetum</i>	Horsetail sp.	Patti Krosse	aquatic to semi-aquatic		yes				the roots are small and probably do not trap much iron, roots do not hold much soil	Has shown invasive tendencies in the CoN wetland	probably easy to transplant some rhizomes, excellent survival rate in CoN(dominates wetland-maybe too aggressive), also abundant in Floyd Dryden
<i>Hordeum brachyantherum</i>	Meadow Barley	Observed at Kingfisher Pond	moist soils	3'		yes	food for blacktail deer			Primarily a maritime species, along beaches and meadows	planted in Kingfisher Pond (seed), found only one plant

Scientific Name	Common Name	Recommendation by	Water Level	Height	Transplant Potential	Seed Potential	Wildlife Benefits	Human Benefits	Iron phytoremediation	Liabilities	Other Issues
Juncus effusus	Common Rush	Patti Krosse	some water-a little drier, gravelly disturbed land	1-4'	Difficult	yes		less attractive, smaller			germinates easily
Juncus mertensianus	Merten's Rush	Observed at Kingfisher Pond	marsh and bog	1'		yes		attractive seed head			planted in Kingfisher Pond (seed), growing in saturated soil
Lysichiton americanum	Skunk Cabbage	Observed at CoN, Ed Buyarski	wet edges of water	1-4'	thick root, need to get down deep to dig it out	yes, direct sow in fall	food for deer, bear, and gnats	attractive flower, color		Shady, forested areas	present at edges of CoN
Menyanthes trifoliata	Buckbean	Patti Krosse	aquatic to semi-aquatic	1'	easy to dig up but difficult to establish in soil	yes	fruit is food for flies, beetles, bees, and birds	attractive flower		rhizomes	planted in past with water around it at all times, creeping rhizomes should be separated in fall or early spring. Transplanted into Floyd Dryden wetland, has spread and is doing well there
Scirpus Microcarpus	Small-Leaf Bulrush	Patti Krosse, Dave Maddix	water with a gradient	4'	very easy to dig roots and transplant successfully	yes	nesting, cover, seeds	attractive seed heads, medium height	root uptake potential		some bulrush present in CoN, believed to be this type, planted in Kingfisher Pond. It is doing very well and has spread
Wet Meadow											
Aconitum delphinifolium	Monkshood	Book	wet meadow, streambanks	3'				attractive flowers		poisonous	needs the drier upslope of wet meadow, often found at higher elevations
Aquilegia formosa	Columbine	Ed Buyarski	wet meadow, streambanks, often in rocky areas	2'	yes	yes	food for hummingbirds, cover for nesting species	attractive flower			prefers drier areas, well-drained, Ed Buyarski says seeding works very well
Calamagrostis canadensis	Bluejoint Reedgrass	Book, Dave Maddix	wet meadows and well-drained uplands	3'	yes with sprigs	limited, grassroots or sprigging plugs	bird seed, nesting, cover for small mammals		dense fibrous root system, slightly rhizomatous		forms overhanging banks, aggressive colonizer in disturbed areas
Deschampsia cespitosa ssp. beringensis	Tufted Hairgrass	Book	moist soils	1-4'		yes, but high demand	low to moderate fishery and habitat value			Must be careful with seed, none being collected in SE AK. DNA issues with new varieties.	adaptable to many conditions, tufted growth form, seeded in Kingfisher Pond did well from low saturated locations moving up on wet slopes
Dodecatheon pulchellum	Shooting Star	Patti Krosse, Ed Buyarski	moist soil but not standing water	1-1.5'	very easy	difficult, needs to be wet and cold through winter		attractive flower			challenging to start from seed

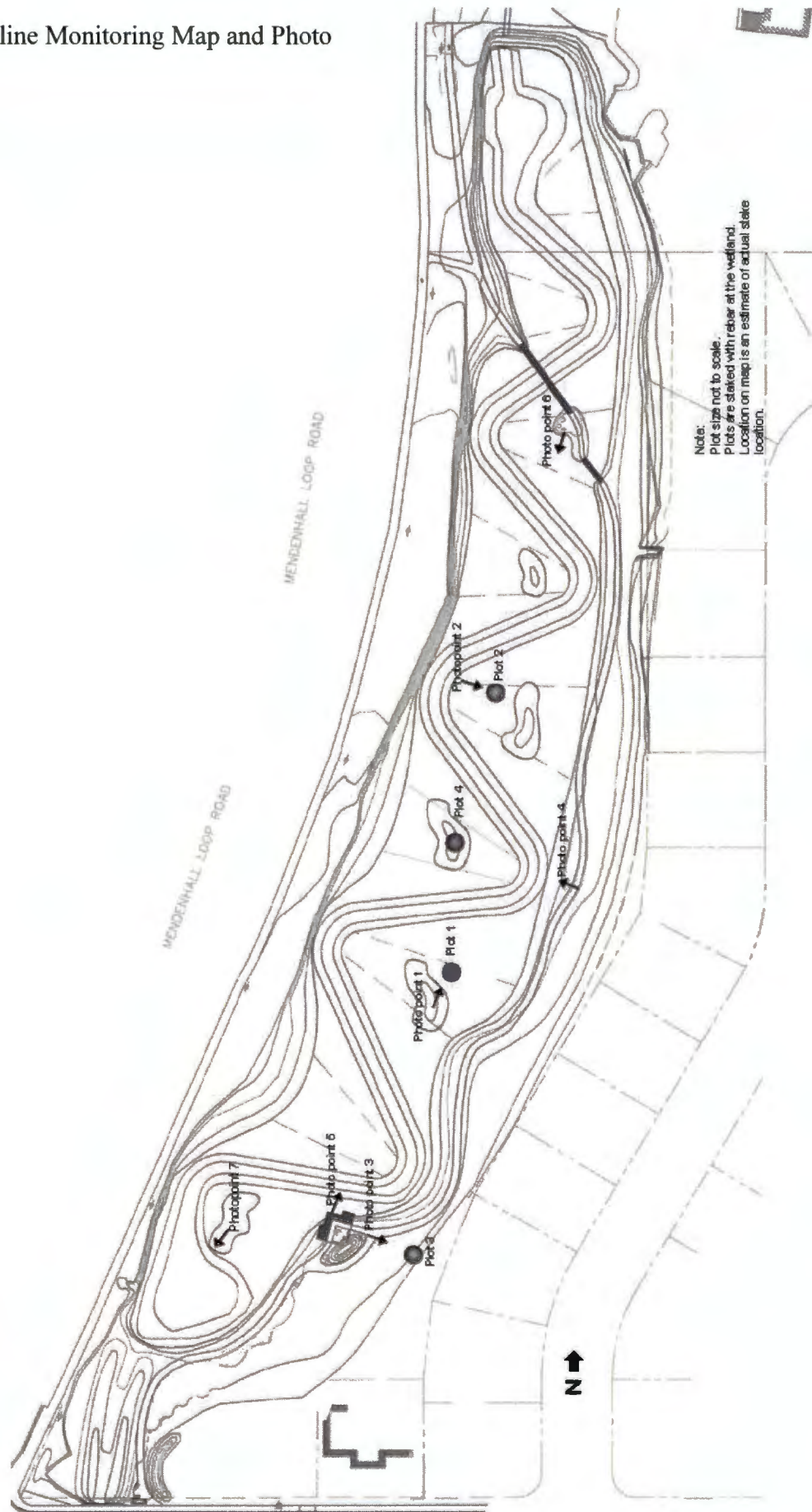
Scientific Name	Common Name	Recommendation by	Water Level	Height	Transplant Potential	Seed Potential	Wildlife Benefits	Human Benefits	Iron phytoremediation	Liabilities	Other Issues
Eriophorum angustifolium	Narrow-Leaved Cotton Grass	Book	wet, moist soil	2'				attractive seed head		rhizomes	
Festuca rubra	Red Fescue	Book	moist to well-drained	6"-40"		yes	low habitat and fishery value	reddish hue			very common in Alaska in low elevation meadows and mountain meadows, easy to seed, used for agriculture, horticulture, lawns, tolerates flooding
Fritillaria camschatcensis	Chocolate Lily	Patti Krosse	moist soil but not standing water	2.5'	Patti Krosse says it is very easy, and they take well (bulb form)			attractive flower			
Iris Setosa	Wild Flag	Book	moist soil	1-3'	easy			attractive flowers			Rhizomes can be divided and gathered in spring or in fall in mild areas
Lupinus nootkatensis	Nootka Lupine	Ed Buyarski	moist soils	2-3'	very difficult to transplant because of extensive root system	yes-gather in pods, dry out pods so they pop and capture the seeds	food for hummingbirds, cover for nesting species	attractive flowers		Needs mineral soil, likes gravel, well-drained	Fixes nitrogen, volunteered at Kingfisher Pond, seeded areas at Floyd Dryden did not take well, only a few plants
Rubus spectabilis	Salmonberry	Book	wet areas	3-9'	dig up rhizomes with many root off shoots, fairly easy		berries good for food	attractive flowers and berries, good screening		attracts bear	
Valeriana sitchensis	Sitka Valerian	Book	moist soil	1-3'				attractive flowers			
Viola palustris	Marsh Violet	Ed Buyarski	saturated soils	low	yes, easy			attractive flowers			
Tree/Shrub											
Acer glabrum	Douglas Maple		floodplain, moist, into uplands	30'	Seed, transplant, softwood cutting	yes	birds eat seeds, cover	attractive fall foliage, yellow-crimson		found mostly in Juneau on rocky coast	
Alnus rubra	Red Alder	Book	wet soils	75'	Hedge layer, transplant, seed, hardwood cutting	yes	food, cover				nitrogen fixing, good on steep slopes
Alnus viridus (Alnus sinuata)	Sitka Alder	Book	wet soils	18'	Hedge layer, transplant, seed, hardwood cutting	yes	food, cover				nitrogen fixing, longpointed teeth of two sizes
Arnica montana	Goat's Beard	Observed at Kingfisher Pond	wet soils to dry uplands	3-6'	yes	yes					Planted in Kingfisher Pond (seed), no mature plants found

Scientific Name	Common Name	Recommendation by	Water Level	Height	Transplant Potential	Seed Potential	Wildlife Benefits	Human Benefits	Iron phytoremediation	Liabilities	Other Issues
<i>Cornus stolonifera</i>	Red Osier Dogwood	Book	moist soils	3-18'	dormant cutting, live stakes, bundles, brush layer, hedge layering, rooted cuttings, transplants, seed	yes	berries provide winter food for deer	attractive white flowers, berries, and red twigs			2-4 specimens planted in Kingfisher Pond, looks like the original shoots died, but root base survived and is sending up new shoots.
<i>Picea sitchensis</i>	Sitka Spruce	Book	wet soils to dry uplands	200'	transplant, seed	yes	birds eat seed, habitat, winter nesting	evergreen, good screen			
<i>Populus balsamifera</i>	Black Cottonwood	Book	water edge	150'	dormant cuttings, live stakes, bundles, brush layer, hedge layering, rooted cuttings, transplants, seed	yes	birds eat seed, habitat				
<i>Salix barclayi</i>	Barclay's Willow	Ellen Anderson	water edge	6-8'		yes	habitat				often has 'willow roses' at end of twigs from deformed leaves and insects
<i>Salix sitchensis</i>	Sitka Willow	Book	water edge	3-24'	dormant cutting, live stakes, bundles, brush layer, live stiltation, hedge layering, rooted cuttings, transplants, seed	yes	habitat				
<i>Spirea douglasii</i>	Hardhack Steeplebush	Observed at Kingfisher Pond	wet soils							Juneau is north of its zone	Seeded in Kingfisher Pond, no plants found.
<i>Tsuga heterophylla</i>	Western Hemlock		wet soils	180'	transplant, seed	yes	habitat	evergreen, good screen			needs significant organic content on site to grow, does not do well in recently deglaciated areas, shade tolerant
<i>Viburnum edule</i>	Highbush Cranberry	Observed at Nancy Street in uplands	wet soils and streambanks to dry uplands	5-8'	cuttings possible		berries	attractive and edible berries			Ed Buyarski says its easy to take cuttings, similar to willow
Sources:											
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Appendix 2a. Baseline Monitoring Data
October 2006

Sample Plot	Dominant Species	Common Name	Coverage (%)	Density (number count of species)	Standing water (in)
Plot 1	Carex sitchensis	Sitka sedge		17	11.5
	Caltha palustris	Marsh marigold		1	11.5
Plot 2	Carex sitchensis	Sitka sedge		12	10
	Scirpus microcarpus	Small-Leaf Bulrush		2	10
	Equisetum	Horsetail		2	10
Plot 3	Salix barclayi	Barclay's Willow		11	0
	Alnus	Alder		3	0
	Rubus spectabilis	Salmonberry		2	0
	Athyrium filix-femina	Lady Fern		2	0
	Festuca rubra	Red Fescue			
Plot 4	Salix barclayi	Barclay's Willow		11	0
	Rubus spectabilis	Salmonberry		1	0
	Cornus stolonifera	Red-Twig Dogwood		1	0
	Deschampsia cespitosa	Tufted Hairgrass			0
	Calamagrostis canadensis	Blue-Joint Reed Grass			0
	Festuca rubra	Red fescue			0

Appendix 2b. Baseline Monitoring Map and Photo Point Locations



Appendix 2c. Photo points
October 2006

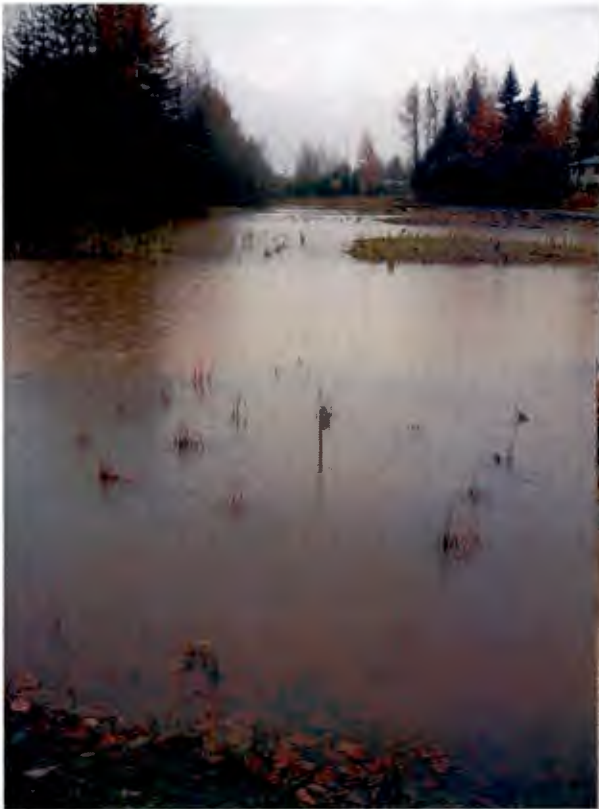


Photo point 1



Photo point 2



Photo point 3

Photo point 4



Photo point 5



Photo point 6



Photo point 7



Appendix 3A. Budget - CBJ Cost Benefit for New High School Project

Option 1: Typical Cost for Filling at Lemon Creek					
	Price	per Unit	Quantity	Unit	Cost
<i>Filling Lemon Creek 52,000 cy</i>					
tipping fee	\$2.50	cy	52,000	cy	\$130,000
trucking fee	\$68	load (8 cy)	6,500	loads	\$442,000
				Total Cost for Lemon Creek Filling	\$572,000
Option 2: Nancy Street Wetland Filling					
	Price	per Unit	Quantity	Unit	Cost
<i>Filling Nancy Street 52,000 cy</i>					
tipping fee	\$1	cy	52,000	cy	\$52,000
trucking fee	\$20	load (8 cy)	6,500	loads	\$130,000
				Total Cost for Nancy Street Filling	\$182,000
				Total Cost for Lemon Creek Filling	\$572,000
				Total Cost for Nancy Street Filling	-\$182,000
				CBJ cost of land purchase of Nancy Street Wetland	-\$137,000
				Savings for CBJ after land purchase	\$253,000

The City and Borough of Juneau saved \$253,000 by purchasing, filling and enhancing the Nancy Street Wetland instead of following the following the typical process of fill disposal at Lemon Creek. The reasons for the savings include:

1. The distance from the construction site to the Nancy Street Wetland is approximately 3 miles shorter than the distance to the Lemon Creek disposal site. This reduces fuel and transportation costs.
2. The CBJ owned the disposal property and could reduce the tipping fees considerably, thereby saving the project money.
3. The process of enhancing the Nancy Street Wetland was funded entirely by the U.S. Fish & Wildlife Service, the Natural Resource Conservation Service, and other grants and donations. The involvement of the resource agencies at all stages of planning, design and construction facilitated the filling and enhancement process. See Appendix 3B for contribution details.

Appendix 3B. Budget - Contributions

	Entity	Program	Task	Amount
1.	Land Purchase			
	CBJ	Street Sales Tax	Land Purchase	\$137,000
			Total	\$137,000
2.	Earthwork			
	USFWS	Partners for Fish and Wildlife Program	Intern	\$9,000
			Earthwork	\$31,000
	NRCS	Wildlife Habitat Improvement Program	Fill placement and rough grading	\$75,000
			Total	\$115,000
3.	Planting, Final Grading, Outlet Channel and Control Structure			
	USFWS	Partners for Fish and Wildlife Program	Outlet Design, Final Grading	\$45,000
			SAGA-FWS Contract - Reveg	\$26,800
			Intern	\$10,000
	NRCS	Wildlife Habitat Improvement Program	Fish passage channel	\$6,000
			Structure for water control	\$3,750
			Final grading, topsoil placement, planting	\$42,000
	Full Circle Farms	Donation-Cash	Plant Materials	\$5,000
	Full Circle Farms	Donation-Labor	Collection and Planting	\$5,600
	Full Circle Farms	Donation-In Kind	Plant Storage	\$3,000
	Duran Construction Co.	Third Party EPA Mitigation Compliance	Topsoil Delivery, 5500cy	\$30,000
			Total	\$177,150
4.	Trail Construction			
	DNR	Recreational Trails Grant	Trail materials, construction	\$46,746
	Glacier State Contractors	Private Donor	Trail grading and gravel	\$14,000
	Juneau Docks and Harbors	Donation- In Kind	Bridge and Delivery	\$14,900
			Total	\$75,646
			GRAND TOTAL	\$504,796

Timeline for Purchase, Filling and Enhancement

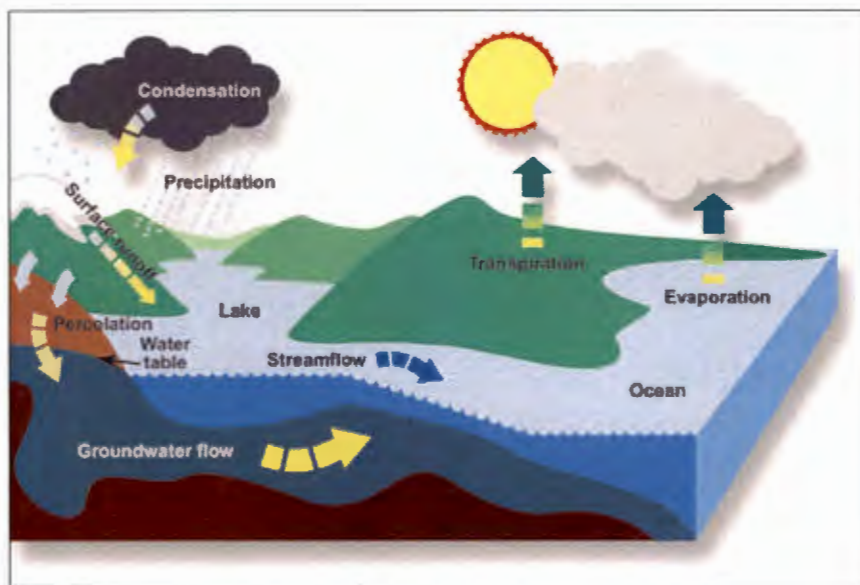
	2005															2006				
	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
Land Purchase																				
Planning and Design for Filling																				
Planning and Design for Revegetation																				
Earthwork and Filling																				
Outlet Channel and Control Structure																				
Planting																				
Trail Construction																				

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GROUNDWATER IN THE AGGREGATE INDUSTRY

Groundwater is a renewable resource that is in constant motion as part of the hydrologic cycle. Above-water pits and quarries have little or no effect on water levels or the flow of groundwater.



What is Groundwater?

Just as the name implies, groundwater is water contained in the pores and fissures of the earth. Groundwater is a renewable resource. It is in constant motion, part of the hydrologic cycle (see Hydrologic Cycle on the cover page). Rainfall and snowmelt infiltrate into the earth to recharge groundwater, which then flows as baseflow into streams and lakes. Evaporation from open water, and transpiration from plants, returns water to the atmosphere to complete the cycle.

A common misconception is that groundwater flows in underground rivers and lakes like surface water. Instead, groundwater seeps very slowly through the pore spaces and small fissures in the soil and rock. Materials such as clay have a low permeability, and hence very slow groundwater flow, while sand and gravel, or highly fractured rock, have high permeability and permit groundwater to flow faster. These more permeable layers are called aquifers.

The water table is the depth at which the soils or rock become completely saturated with groundwater. If a hole were dug, and left to stand for a while for groundwater to seep in, the water level in the hole would represent the water table. The water table elevation is not static, though, and it can fluctuate in different seasons and from year-to-year, depending on the amount of recharge. Natural depressions can intersect the water table to form lakes, ponds and wetlands.

Water Wells

Groundwater is a critical resource in Ontario - nearly one quarter of us rely on wells for our water supply. Some of these are municipal wells serving urban communities, but the vast majority are private water wells, mainly in the rural parts of the province. Two common types of wells are shallow dug wells which draw water from the water table, and bored or drilled wells which draw water from deeper aquifers.

The *Ontario Water Resources Act* and the *Environmental Protection Act* both serve to protect the quality and quantity of groundwater. They are administered by the Ontario Ministry of the Environment, which will respond to public complaints regarding interference with water wells. The Ministry has several excellent publications available to

Fact Sheet

Groundwater at Pits and Quarries

- Groundwater is a renewable resource.
- Water wells are protected under provincial legislation.
- Above-water pits and quarries can have a beneficial effect on groundwater and aquatic resources.
- Below-water pits and quarries can be operated without significant groundwater impacts if they are carefully designed and operated.
- Permits to Take Water ensure that aggregate wash plants do not harm water resources.

Aggregate extraction and processing is a clean industry that does not provide groundwater contaminants.

homeowners on subjects including proper water well construction and maintenance, protecting water quality in wells and managing water shortages (1-800-565-4923 or www.ene.gov.on.ca).

Wells and their associated equipment require ongoing maintenance. Even with the best maintenance, though, they still tend to degrade naturally over a period of years, through mechanical wear and clogging of the well screen, pump and pipes, .

Can Pits and Quarries Affect the Flow of Groundwater?

The answer depends on the type of pit or quarry.

Above-Water Pits and Quarries

Most of Ontario's sand and gravel pits, and a few of its rock quarries, are excavated entirely above the water table. This type of operation has little or no effect on water levels or the flow of groundwater because there is no direct, physical alteration of the water table or any aquifers. Monitoring programs at above-water pits and quarries across Ontario have confirmed that groundwater is unaffected.

In some ways, above-water pits and quarries can actually be beneficial to groundwater. They create a "bowl" that captures and infiltrates all rainfall and snowmelt rather than allowing some of it to run off across the ground surface. A study on the Oak Ridges Moraine documented a number of benefits related to this extra groundwater recharge (Hunter/Raven Beck,

1996). One of the important benefits is to reduce direct run-off to surface water streams and increase cold groundwater baseflow which is critical to fish habitat.

Below-Water Pits

Below-water pits usually use large excavators or draglines to dredge sand and gravel from the *pit ponds* that form below the water table level. Generally, this type of extraction does not have major impacts because most of the groundwater remains in the pit, or drains back into the pit. This type of pit also captures surface water run-off and promotes more groundwater recharge, but these benefits are offset by the increased evaporation that will occur from the surface of a pit pond. Minor water losses also occur due to residual moisture contained in the aggregate products that are shipped from the site. Finally, the removal of solid sand and gravel particles from below the water table has the effect of temporarily lowering the water level in a pit pond (imagine removing a rock from a bucket of water).

The water surface in very large below-water pit ponds will stabilize at a uniform level, whereas the groundwater table before extraction may have been irregular or sloping. Therefore, the water table around the pit will have to “adjust” to the water level in the pit pond, possibly resulting in slightly different groundwater flow patterns. Fortunately, there is a simple solution where this may be a problem – digging several smaller pit ponds rather than one large pond (Ostrander *et al.*, 1998).

When all of these factors are combined, the net effects of below-water extraction are normally minor and very localized. However, in certain circumstances they could still be significant if there are sensitive features such as wetlands or shallow wells in close proximity. As a result, a detailed and careful hydrogeological study is necessary when licencing this type of pit (Ministry of Natural Resources, 1997), and mitigation (solutions) to any negative impacts will be required. An ongoing groundwater monitoring program may be required.

Below-Water Quarries

Most quarries that extract from below the water table pump water out of the excavation so that the work of blasting and recovering the bedrock can be done on a dry floor. *Dewatering* usually does affect groundwater levels and flow patterns around the site, since it artificially lowers the water table to at least the base of the quarry. Hydrogeologists call the area around the quarry that is affected by the dewatering the *drawdown cone* or the *radius of influence*. Wells, streams, wetlands, or other sensitive features within

this area must be carefully studied to predict the impacts and devise mitigation measures before the quarry can be licenced (Ministry of Natural Resources, 1997) and a groundwater monitoring program will normally be required.

There are many locations in Ontario where below-water quarries are successfully operated while sensitive water uses continue nearby – it depends very much on the specific hydrogeological setting. Recently, some innovative technologies have been introduced in Ontario to lessen the effects of quarry dewatering, such as pumping the water from the quarry back into the groundwater system around the quarry to artificially recharge the water table. This has so far proven to be quite successful (Gartner Lee Limited, 2001).

Other Water Takings

Pits and quarries have uses for water, similar to other businesses, such as supplying offices and shops with drinking water, watering lawns and gardens, etc., but these tend to be relatively minor. Most types of aggregate processing, such as crushing and screening, are dry operations and do not require water supply.

However, to minimize dust (which is a byproduct of excavation in a pit or quarry) spray water is used on internal haul roads, processing equipment, stockpiles and trucks.

One exception is aggregate washing plants, which are used at some sites, and do require relatively large quantities of water. Most plants recycle wash water through a “closed loop” series of holding ponds and settling ponds (i.e., the water is re-circulated, with no off-site discharge), so that the amount of water actually consumed in the process is usually less than about 10%. This *make-up water* normally comes from local groundwater or surface water sources. A common configuration would be to have a well that would be used occasionally during the production season to “top up” the ponds.

These water takings are regulated separately from the pit licence under the *Ontario Water Resources Act*, and controlled through Permits to Take Water. The applications and related hydrogeological studies are carefully reviewed by the Ministry of the Environment, other government agencies, and the interested public through the Environmental Bill of Rights process to ensure there will be no unacceptable impacts from these water takings, before the permit is issued.

GROUNDWATER IN THE AGGREGATE INDUSTRY

Can a Pit or Quarry Contaminate Groundwater?

It surprises some people to learn that aggregate extraction is a clean industry. Processing aggregates is a purely mechanical process of crushing, screening, blending, and sometimes washing (with water), without the need for chemicals. At most sites, fuels and lubricants for the equipment are the only potential sources of groundwater contamination, and these are closely regulated under the *Technical Standards and Safety Act*. A spills contingency plan is a standard condition of every new aggregate licence.

Bacteriological contamination of the type responsible for the Walkerton tragedy comes from human and animal wastes. Aggregate extraction and processing is not a source of this type of contamination.

As a result, water quality in and around pits and quarries is not normally an issue. This was confirmed through a study in 1989 as part of the Ontario government's MISA program, where monitoring at a selected number of pits and quarries found good water quality, with only sporadic traces of organic compounds at some sites that might indicate the use of petroleum products (SENES, 1989). In addition, there are many site specific monitoring programs in place at aggregate operations.

What About Water Temperature?

Water temperature concerns are occasionally raised in conjunction with below-water pits. A pit pond warmed through the summer months could result in a flow of warmer groundwater to nearby points of baseflow discharge and, in turn, affect cold water fisheries resources. An analysis conducted on behalf of the Credit

Valley Conservation Authority in 1998 concluded that pit ponds have minimal impact on groundwater temperatures, and that these minor effects are completely dissipated within a few hundred metres from a pit (Ostrander *et al*, 1998). Field monitoring has also confirmed that groundwater returns to its normal background temperature within tens of metres of pit ponds (Harden Environmental, 1995).

As a result of the research to-date, thermal effects of pits and quarries is not considered to be a major issue in most cases. However, where there are cold water fisheries close to a pit pond, appropriate investigations and studies are required, and the setbacks and buffer zones will be adjusted accordingly.

For further information, please contact the OSSGA Environment and Resources Manager, at (905) 507-0711 or visit the OSSGA website at www.ossga.com.

Prepared by Gartner Lee Limited in consultation with OSSGA's Environment Committee.

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2. Bronze Plaque Award
3. Rehabilitation of Pits and Quarries
4. Being a Good Neighbour
5. Importance of Aggregates
6. Geology and Aggregate Extraction
7. Controlled Blasting at Quarries
8. Groundwater in the Aggregate Industry
9. Management of Abandoned Aggregate Properties (MAAP) Program



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January 17, 2022

Mr. Ed Martin III, President
Kenai Peninsula Aggregate and Contractors Association
Via email: Kpac (kpacassocoation@yahoo.c0m)

Subject: Comments on KPB proposed material site ordinance amendments

As requested, I have reviewed the ordinance proposed to amend KPB 21.25 and 21.50.055 regarding material site permits, applications, conditions and procedures and offer the following comments, observations and suggestions. These comments are provided pro bono as a courtesy to your organization as well as to the Kenai Peninsula Borough and its residents.

I have been retired, as a principal partner with the engineering firm of Wince-Corthell-Bryson in Kenai, for the past three years and therefore have no further interest in contracts or projects within the Borough. I have been a Kenai Peninsula resident since childhood when my parents homesteaded the Kasilof area in 1957 and have over 50 years of construction and engineering experience in the central, southcentral and southwestern regions of Alaska.

I have over 40 year's experience in the planning, design, and management of federally funded highway and airport projects where the National Environmental Protection Policy Act (NEPA) procedures are followed to evaluate and mitigate environmental impacts caused by construction and use of the resulting infrastructure.

All this being said I will offer my comments from a engineering prospective and as a good neighbor in the order of the documents you provided.

Whereas #1and2: Not clear to me what Climate Change has to do with this ordinance

Whereas #3: I assume "other uses" refers to material production. I.e.. Crushing, screening, asphalt and concrete supply.

Whereas #4: I agree larger setbacks are not the answer where a material barrier will address impacts off site.

Whereas #5: Protecting, maximizing, minimizing is not a very definitive word, perhaps mitigating should be considered.

Whereas #12: *Dust, noise, traffic and visual aesthetics appears to me to be the crux of this ongoing debate and as a good neighbor is a reasonable topic. Its how they are reasonably addressed is the issue to me.*

Whereas #17: I agree this catchall statement that additional requirements may be required casts uncertainty in the process and should be removed. The permit process should establish the conditions up front.

SECTION 1. KPB 21.25.030

21.25.030. – Definitions

Permit Area and Haul routes I think this is a valid issue that should be addressed in the permit process. While I agree all vehicles have the right to use the borough roads, most of the Borough roads are not designed and built to carry high numbers of heavy trucks on a daily basis. Alternate access and/or upgrading existing roads may be something to consider to mitigate damage to existing roads as well as other traffic concerns.

21.29.020 Material extraction and activities requiring a permit

B. Conditional land use permit (CLUP) I see no problem with including material processing in with the site plan as crushing and screening operations can be noisy and dusty and can be addressed with effective barrier plans such as earth berms. For the smaller pits processing is not usually not going on so would be a non applicable item on a checklist.

21.29.030 Application Procedure

9. Site Plan. The Site plan along with accompanying SWEPP, Traffic, and Environmental mitigation proposals should be prepared or at least reviewed and signed off on by a Alaska registered Civil Engineer. A checklist would be convenient with this process.

9f. Test Holes. Perhaps the mining plan should be limited to the depth of test holes with provisions to amend the plan later or utilize a drill rig to bore the test holes.

9h. Waterbodies and wetlands. The Borough GIS source provides good planning level information on wetlands. Definitive designations can easily be requested with a two-page application to the local Corp of Engineers office in Soldotna for little to no cost and only takes 2-4 weeks to obtain.

21.29.040. Standards for sand, gravel or material sites. This section addresses protecting or minimizing environmental conditions again perhaps mitigating would be an acceptable term. Regarding damage to adjacent properties, I believe that goes with out saying. Any damage to another person's property is protected under state law and pursuable in civil court.

21.29.050. Permit Conditions

2. Buffer Zone. A) I don't believe a 50-foot strip of trees affectively buffers adjacent property and ROW from visual, noise or dust impacts. A 10-foot minimum, neatly shaped and seeded, earth berm would affectively mitigate those three impacts and is readily available from site stripping as well as being available for reclamation activities. The buffer should not overlap ROW utility easements as those are dedicated for utility use.

I think it might be a good idea to establish some parameters to be achieves with the buffer such as visibility level which a 10-foot berm achieves. Noise levels which the borough proposes late at 75 decibels should be achievable considering FAA noise standards for airport noise is 65 decibels and easily measured with a decibel meter which I have can loan you. Airborne particulate is a difficult to measure without special equipment so maybe a visible standard could be used.

4. Water Source Separation b. I don't believe a few feet of gravel separation to the ground water protects it at all from fuel and oil spills, on the contrary. Minor spills that can be obscured by pit operations can build up over time and steadily leach into the water table not showing up for quite some time and well down gradient resulting in a long term impact.

Dredging operations below water table can be boomed off and if a spill occurs is immediately visible and can be quickly boomed in, skimmed and absorbed.

5. Excavation in the water table. Simply dredging into the water table should have little affect on its level or down gradient wells. I agree some horizontal separations is required and would think the 200-foot separation required by ADEC would be sufficient.

If dewatering is proposed, then the following requirements address those impacts .

6. Waterbodies. I believe a 100-foot buffer with appropriate SWEPP practices will adequately protect surface water and wetlands.

11. Hours of Operation. Over my career I have only been involved with a few double shifting projects and they were on airports well away from residential areas. From what I have observed most operations run about 12 hours a day 5-7 days a week. Perhaps a special use permit could be utilized for unusual working hours.

17. Sound Level. The 75 decibel limit may be impossible to meet during initial pit development until the clearing, stripping, berming and the pit is to a depth below grade. Perhaps the permit could allow the 1.5 increase during initial development. This should be achievable during the first season of operation.

The smaller pits (1-2.5 acres) should be exempt from this requiremen, as I don't believe they can ever meet the requirement and they are normally project specific, only operating for a few weeks to a few months.

19. Ingress and Egress. Should be addressed in the permit process to assure existing Borough roads are capable of accommodating the increase in heavy truck traffic.

I have no comments on the Decision and Reclamation sections as that is housekeeping between the operators and the Borough in m my mind.

I also think that the final product of this ordinance should be a result of a consensus of the stakeholders and not simply a mater of majority vote rule. In the end a Permit Checklist should be provided that addresses all the impacts, their limits and provides a template for proposed mitigation .

One last observation is that considering how important gravel borrow sites are to the long term development and economics of the Peninsula I think the Borough and State should be encouraged to set aside some suitable land in proximity to the road system but buffered from private holding for land lease or sale. Making land available that is more neighbor friendly would solve not only this current issue but insure the continued growth of our area.

I hope my comments provide some ideas for consideration and wish you and the Borough success with the continued process to address this matter

Sincerely

A handwritten signature in cursive script, reading "Casey Madden". The signature is written in dark ink and is positioned above a horizontal line.

Casey Madden, P.E.
Alaska Registered Civil Engineer No. 7235



Broyles, Randi

From: Blankenship, Johni
Sent: Monday, January 24, 2022 10:52 AM
To: Broyles, Randi
Subject: FW: New Public Comment to Assembly Members

Public comment

From: Kenai Peninsula Borough <webmaster@borough.kenai.ak.us>
Sent: Monday, January 24, 2022 10:48 AM
To: BoroughAssembly <Borough-Assembly@kpb.us>; Mayor's Department <MayorDepartmental@kpb.us>
Subject: New Public Comment to Assembly Members

Your Name: Joseph Ross

Your Email: smokeross@alaska.net

Subject: Gravel ordinance

Message:

No other industry in the borough is regulated to the extent that you are considering for our local gravel producers. Where are the regulations for the dirt burner? There was an immense amount of public outcry about it, but no task force was formed by KPB to address it. Homeless shelters? Same deal. Marijuana growers? Crickets. What you are attempting is spot zoning, and will cripple the gravel industry. One item you are considering in the new list of zoning is back up alarms. Will you be making rules about back up alarms for everyone, or just gravel producers? I hear back up alarms from Peak Construction every day. Sometimes even at night. How about the back up alarms on the graders out plowing snow at night?

Need to look @
18 AAC 80 SOA Drinking
Water Dept - there are
some source water provisions
80.015.

- differentiate Bt major
and minor extraction operations
and those in GWT that
stay above GWT

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. (Material processing occurs on every civil construction jobsite. This is a burden to the public at large to develop their property)

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 civil engineer (many of the operators are certified), including the use of diversion channels, interception ditches, on-site collection ditches, sediment ponds and traps, and silt fence;

DEC Regs
on "Certified
Individual"
may not incl
Civil Engr

Don't know what this means

9. A site plan and field (verification) prepared by the site operator or a professional surveyor licensed and registered in the State of Alaska, including the following information: (surveyors don't offer this service, nor are qualified)

Should separate
site plan from other issues
calling it a "site plan" may
bring other state requirements
into play

- 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; (can't dig that deep many times, if resource is deeper than conventional equipment can dig without stage excavation)
- g. Location of wells of adjacent property owners within 300 feet of the proposed parcel boundary;

may not be enough for
Public wells
- separate Private
From public sources

- 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; (wetland mapping by KWF under contestment and found unreliable)
- [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]i. North arrow;
- [L]k. The scale to which the site plan is drawn;
- [M]l. Preparer's name, date and seal; (A site operator may not have a 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.

Separate Site Plan From other Requirements

- 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 (protects against is an absolute term and most of the time is unobtainable) Minimize aquifer disturbance, road damage, physical damage to adjacent properties, dust, and, noise, and visual impacts. (See explanation below) 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;

- properties;
2. Protects against Minimizes physical damage to [OTHER] adjacent
 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] (visual impacts implies the taking of visual rights from one citizen and giving to another. I have done extensive research on this and found the KPB just doesn't have the authority. Keeping this language puts the KPB at risk of litigation.)
 6. Provides for alternate post-mining land uses[.];
 7. Protects Minimizes Receiving Waters against adverse effects to fish and wildlife habitat;
 8. Minimizes Protects against traffic impacts; and
 9. Provides consistency with the objectives of the Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents. (Possible Zoning)

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 or site operator. Stakes shall be in place [AT TIME OF APPLICATION] prior to issuance of the permit. (Many site operators have GPS capability accurate to +/- 1".)

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 SIX-FOOT EARTHEN BERM WITH AT LEAST A 2:1 SLOPE, OR (THIS 10FT BERM IS CONTINGENT ON THE SETTLEMENT OF THE WATER TABLE ACCESS)

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.]

with a
steeper not steeper
than 2:1

Comply w/
18 AAC 70-50A
Water Quality
Regulations

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. (Historically, choosing the natural vegetation buffer has almost always ended with both neighbors disappointed. The home owner doesn't realize that the forest isn't very dense and can see and hear the material operation.) a minimum six-foot fence, a minimum six-foot berm or a combination thereof. (The berms are historically the best tool. Does a great job of minimizing the dust and noise, as well as providing a visual screen. A ten-foot berm will add 280% more in size and reclaimable material stored for later use in reclamation.)
- 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 30days from the time of removal. (30 days may not be enough time to move the amount of material)
- c. Where an easement exists, a buffer shall not overlap the easement, unless otherwise conditioned by the planning commission or planning director, as applicable. (Basically, stacking buffers)
- d. 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. (This is necessary to clarify that the planning commission or director cannot make an alternate plan at will) The alternate buffer plan must consist of natural undisturbed vegetation, or a minimum ten six-foot berm, or a minimum six-foot fence or a combination thereof, consisting of only one option in a single geographical location; (prevents stacking of buffers, and provides consistency in permit requirements) 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. (Could be a lot cleared years before or an old wildfire site)

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. (Until vicinity is better defined, we can't consider this)

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 an excavation distance of 15 feet below the seasonal high-water table must be maintained under these conditions:

1. No dewatering is allowed.

2. The bottom of excavation must be 15 feet above the nearest, shallowest private wells intake, within 500 ft of operation.

3. A spill response kit.

4. Operations shall not breach an aquifer-confining layer.

A four-foot vertical separation [FROM] between extraction operations and the seasonal high-water table be maintained. (I

have talked with multiple hydrologists and engineers and have come to a conclusion that this is not only possible, but preferable in regard to reclamation, spill response and potential clean up. I will have letters of opinion in favor. The ponds or lakes created will be reclaimed upon existence, provide habitat for wetlands and wildlife, potentially raise property values as lake front property, etc.)

He above seems conflicting - Allows operator to excav. 15' into GWT but requires a 4' vert separation to GWT?

Drinking water source - 700' for public well / source

who provides the adjacent well information? How is it obtained? What if adjacent property owner refuses to give that info? well drillers will not provide a log for someone's well who owns approval - especially in a contested situation.

see 18 AAC 80.1990(A)

- 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. (Null and void if minimum water table excavation regulation is considered)
- 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 15 vertical (300 horizontal feet) of a water source may be permitted with the approval of the planning commission based on the following: (15 vertical feet is better measurement if minimum water table excavation regulation is considered)

- 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 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. (Again, we can not trust the current adopted wetland mapping. It has been found incorrect. Also, we would like to manipulate and possibly enlarge waterbodies within private land. Promoting wetland expansion and environmental habitat.)

- b. Counter permits and CLUPS may contain additional conditions addressing surface water diversion.

Containment Areas
are problematic bk
they collect water
that will prob. stain
a sheep - then what?

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. (Double wall tanks are an acceptable standard for many other agencies)
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 7:00 p.m. and 6:00 a.m. (Construction season is short and

processing operations are usually job specific. This puts a burden on development at all levels and can extend the length of days on a job that effects public safety.)

- 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. ~~(No need for this regulation as the natural vegetative buffer is not and should not be a best choice. If the need for additional buffing is required, the ten foot berm will suffice.)~~
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.
(There is no science behind this. Almost every instance, it will be impossible to achieve with OSHA and MSHA standards. Also, will be further managed by the introduction of larger 10ft berms)
18. Reverse signal alarms. Reverse signal alarms, used at the material site on loaders, excavators, and other earthmoving equipment may 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. (May is the proper term and gives flexibility)
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. (This can only be instituted with strict standards and limitations of the planning commissions discretionary power. As written, it gives the planning commission discretion at will in an area of construction that they don't have the expertise.)
20. 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. (As explained before)

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. Groundwater elevation. All material sites must maintain one monitoring tube per ten acres of excavated area four feet below the proposed excavation. (This will be unnecessary as the material site will be digging in the water table or unable to reach it and not effecting its formation.)

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. At the time of application. (This gives consistency in the regulation)

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. (This is written that the planning commission will disapprove of applications that do not meet the mandatory conditions. It contradicts many previous languages that gives the planning commission discretion to approve applications that may need special modifications.)

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. (Why the need for a five-year reclamation plan? As site operators, we cannot foresee the market in a five-year span, therefore, cannot provide an accurate plan for five years.)
- B. The applicant may shall revegetate with a non-invasive plant species and reclaim all disturbed land (There are many ways to reclamation. This limits it to one method) [UPON EXHAUSTING THE MATERIAL ON-SITE, OR WITHIN A

What's the
purpose of the
monitoring well?
Is it (are they?)
downgradient?
Testing? Monitoring?



To whom it may concern:

The Kenai Peninsula Aggregate and Contractors Association does not support ordinance 2021-41. We feel that it is flawed in many ways, and in some respects, impossible to follow.

The lack of all information or slanted information in the whereas is misleading. The use of Changing Climate has nothing to do with material extraction nor is scientifically proven without a doubt. The lack of mention that this exact document other than its previous designation of 2019-30 mayor substitute, was voted down, reconsidered, then voted down again, is important to note.

We feel the creation of this document was not done in a fair, well educated, and well represented way. The Material Site Work Group was formed using 8 members, and only 2 from the industry it would regulate. A 6 to 2 vote was all too common, as the majority of its members had limited experience if any at all. This ultimately created an ordinance that no one could support. That being said, we feel if such document should be created, this ordinance should not be considered as a guide whatsoever, as it would be counterproductive. Our reasoning is stated below.

The use of aesthetics, view, unsightliness, or any term that insinuates regulating view shed rights is not a power afforded to the KPB. After many hours of research, we have found that there are only 3 ways view shed rights have been regulated or transferred in the USA. The federal government regulates view shed on federal land containing historical sites and parks. Local first-class governments have zoning power. Some local governments have regulated through zoning, view shed rights over large zones containing all parcels of land within. There is no precedent of any government regulating view shed on singular parcels of land pertaining to one industry. The KPB is a second-class government with no zoning power. Last, we have found some instances where view shed rights have been transferred in the private sector through purchase.

This ordinance was founded by its initial goals. Those goals contained view shed language and concerns. Therefore, the ordinance was given wrong direction from its inception. All language concerning view must be stricken from its contents.

The definition of "disturbed" should not include "stockpiles" as it is used in 21.29.060 (b). The intent of reclamation is to put the land back to a suitable condition after operations have ceased. If operations have truly ceased, and the land has been put back to a suitable condition, there will be no stockpiles.

Eliminating the term "exhausted" was counterproductive in the intent of the original use of the land.

The definition of "haul route" and its use in the ordinance is unfairly singling out one industry as many others haul commercially in the KPB. Also, we are already regulated by KPB 21.29.050 (8), KPB 14.40.175, and subject to KPB 14.40.

The definition of "vicinity" is too broad and can give other residents not effected by operations by geographic and topographic locations the ability to diminish operations such as processing. Adjacent was a better term used.

21.29.030 (8) is already regulated by the federal government through SWPPP plans. This is unneeded, and a further burden to the KPB and the operator.

21.29.030 (9) (f) the timeframe from May to December does not coincide with construction season. Many bids come out before May for the upcoming season and a contractor will have to speculate and possibly apply for a permit before bidding a project. This will only burden the public to unnecessary costs and safety by denying the opportunity to obtain a close source of material.

21.29.040 (a) (3,4,5) the definition of “minimizes” and the inclusion of “protects against” is an unobtainable condition. “Minimizes” allowed the operator the ability to mitigate the situation. “Protects against” insinuates the absolute disbursements of, and is an impossible and unfair condition. It also contradicts other conditions levied in this ordinance. (3) is impossible as written, as dust moves naturally. It is not only unfair, because everyone creates dust, such as a parking lot on a windy day, or a homeowner mowing their lawn, but impossible to comply to because one particle across the property line defies the law. (4) is already regulated by the federal government agency MSHA. This is a further burden on the KPB and the operator. (5) is unlawful for the KPB to regulate as it insinuates the taking of view shed rights and the KPB is a second-class government with no zoning power.

(8) also includes the term “protects against” and is an impossible condition. As soon as an operator uses a public road to travel, they will impact traffic just by their presence. We have the right to travel by federal law, 5th amendment to the U.S. constitution.

21.29.050 (2) we feel the changes in the buffer zones were negotiated on incorrect information by KPB staff. Our representatives were misinformed as well as the rest of the MSWG and public as to the current distance and application of buffers conditioned to the applicant. As we read the current law, you may impose a combination of buffer requirements on an application, but only one in any geographical location. “Stacking” is prohibited. For instance, you may have a 50ft natural vegetative buffer on the north border and a minimum 6ft fence on the west, and a minimum 6ft berm on the east, but not all on one border. The word “or” in (2) (a) supports that. The KPB has already misused this law by asking for or requiring operators to comply with “stacking”. We feel the MSWG and the public did not receive the correct data to make an informed decision or to give public comment. A 100ft maximum buffer is an unnecessary burden to the applicant as it locks up a rare and high demanded commodity.

(2) (b) is in conflict with other conditions such as noise and undisturbed natural vegetation. How can we remove and replace material near or on the border of our site with heavy machinery if we cannot make noise, dust, or disturb vegetation?

(3) the use of “vicinity” is too broad. A property over a large hill, across a forest, on another road, may affect the use of processing even though they cannot see, hear, or be troubled in any way.

(4) we feel that the changes from 2 vertical ft. to 4ft is unnecessary. We don’t feel the MSWG was really given the option to go the other way and scientific data to make an informed decision. To our knowledge, there has been no conflict proven in the KPB with a 2ft separation. Many sites in Alaska mine in the water table. Some right here in the KPB. There is no precedent to support the taking of 2ft of resources away from an operator. We feel this section could have been abolished in its entirety and section (5) is sufficient.

(6) Again, we feel this is a product of lack of scientific data and there is no precedence to support the taking of 100ft of horizontal distance. State mining law is very different and allows for a much closer distance.

(17) this is also conceived by lack of scientific knowledge. Also, we are already regulated by the federal agency MSHA. This should be abolished in its entirety.

(18) this is unfairly enforcing a regulation on one industry. The KPB doesn't want to get involved in the type of safety equipment used. If an accident occurred, the KPB could be held liable. Also, we cannot control other possible members of the industry from outside the KPB who may not have these devices and come here to work for the season.

(19) this is unfair to the operator as we have the right to travel on any road. The possible burden to an operator could be massive because of topography and diminish the opportunity to access resources.

(20) this is unfair to the industry. We already supply dust suppression as good neighbors and stewards of the land. This is singling out one industry as almost all industries on the KPB are involved with a heavy truck creating dust on a road at some point. School busses create the same dust.

(21) Again, already regulated by federal SWPPP plans.

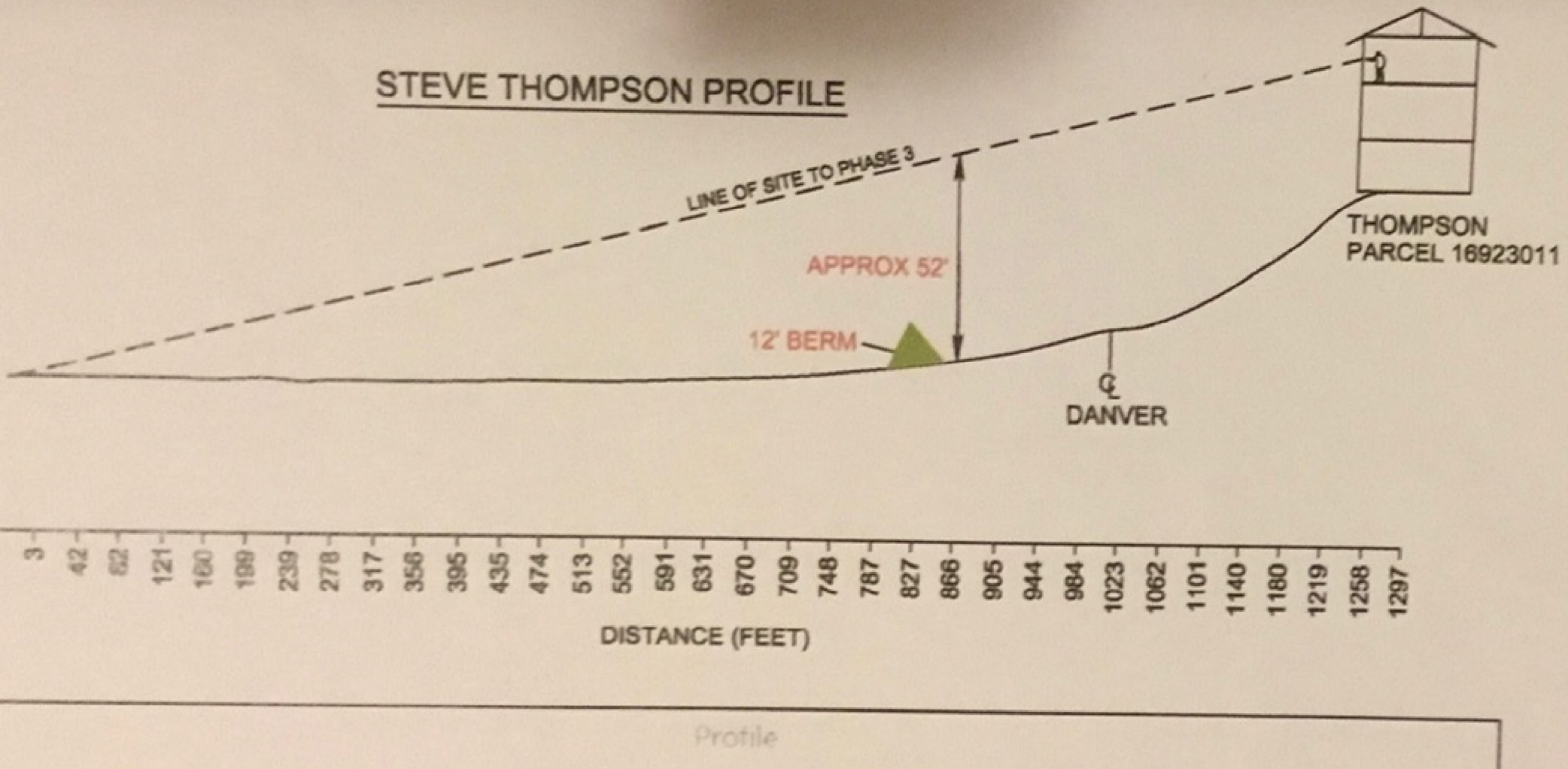
(22) unnecessary. Mining in the water table is common throughout Alaska.

21.29.060 (b) the use of "disturbed" includes basically, the whole site, including stockpiles. This is unrealistic. If there was more industry input, the MSWG would know that in general, the geology on the KPB is quite scarce of suitable topsoil. Every time you move it, you lose some. If we constantly reclamated our sites, we won't have the material to finish the job. Also, this doesn't have the provisions for other uses of the site such as a commercial property or parking lot needing no reclamation. The bonding requirement is also an undue burden as the State requires only \$750.

21.29.120 (c) we feel this is unjust to current operators. While to all it is reneging on the deal they agreed to at time of origin, some PEU's aren't required to submit a reclamation plan with the state and have no way of complying. This is just a way for government to not hold up their end of a deal struck with a citizen and harass them. It is not very becoming of the KPB to do so.

So, as you can see, the Kenai Peninsula Aggregate and Contractors Association and its members, families, and dependents, can find inconsistencies and faults in almost every aspect of this ordinance. It is inconsistent with industry standards, lacks scientific merit, isn't in harmony with other government agencies such as MSHA, OSHA, and DEC. This ordinance lacks an avenue for operators to complete discovery and reclamation that coincides with best management practices. In many areas it is based on false or inconsistent fact and overreach of regulatory power. Such as viewshed rights and wetland mapping. We consider this document as a form of a taking without just compensation and a form of zoning to a specific industry. We urge you to vote no on 2021-41 to save us all the conflict and burden it will surely cause.

Thank you for your consideration, Ed Martin III, President, KPACA.



Turner, Michele

From: Blankenship, Johni
Sent: Tuesday, January 18, 2022 4:23 PM
To: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>Please provide to the Assembly for tonight's meeting on Ord. 2021-14

From: K, E, & E Martin <keeconstructionllc@yahoo.com>
Sent: Tuesday, January 18, 2022 4:02 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>Please provide to the Assembly for tonight's meeting on Ord. 2021-14

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 all it may concern :

Below is a Opinion of Jim Valenine of Reno ,NV Posted last Sunday Jan.16th in the "Nevada Appeal " News paper serving Carson City , NV I could not better put one's Rights to Private Property & the Constitutional Rights of Ownership & Due Process unobstructed by Government or anyone else!

Please review all Whereas's for facts & truth before considering any Therefore(s) that don't meet constitutional muster!

This second Class Borough shouldn't legislate ZONING without the power to do so & then only if a" taking is warranted " for a public good , then be prepared to pay just compensation . As I have told several Assembly members " Have the courage" to introduce new Zoning Powers for a vote of the people of this Borough. Otherwise this appears as a " BACK DOOR " way to those means. Ed Martin Jr., 702 Lawton Drive , Kenai, Ak

The Fifth Amendment of the U.S. Constitution includes a provision known as the Takings Clause, which states that "private property (shall not) be taken for public use, without just compensation."

This is a very important component of our Constitution that effects all property owners. Some governmental agencies in recent years have implemented laws, rules, policies and procedures that have impacted the quiet enjoyment of the property and the owner's use of the property which is, in fact, an uncompensated taking. More are being proposed as efforts to redistribute wealth become more commonplace. These often include giving rights to tenants that are adverse to the interest of the property owner with no compensation for their loss(es). Richard B. Sanders, Washington State Supreme Court justice, wrote a treatise about the "Fifth Amendment" wherein he wrote, "Our State, and most other states, define property in an extremely broad sense." He continued, "Property in a thing consists not merely in its ownership and possession, but in the unrestricted right of use, enjoyment, and disposal. Anything which destroys any of the elements of property, to that extent, destroys the property itself. The substantial value of property lies in its use. If the right of use be denied, the value of the property is annihilated and ownership is rendered a barren right."

Two more statements we find relevant: Founding Father John Adams, "The moment the idea is admitted into society that property is not as sacred as the law of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence."

From Nevada's own Wayne Hage, property rights activist, "If you don't have the right to own and control property then you are property."

It is so important to those of us living in the free world environment of the United States to understand that you can own real estate and you can enjoy all of the components of the bundle of rights of real estate ownership, as long as you don't willingly, or unwillingly, let them take them from you.

The bundle of rights affords the owner the right of possession, the right of control, the right of exclusion, the right of enjoyment and the right of disposition. We take it for granted that we have this with our property ownership because of the Fifth Amendment, but like all of the freedoms we enjoy in these United States, we must work to protect them.

.[One must be diligent in protecting private property rights for all of us.

If you willingly allow a governing body to make a change that adversely affects you, then you cannot claim an uncompensated taking. If a body such as a Local Planning Commission makes changes to which you don't agree that have a negative impact on your, your use of your property and ultimately the value of your property, then you may be the victim of a Fifth Amendment breach.] Other factors can come into play so it is best to do your best to avoid such actions gaining any traction.

Don't let others push their agenda to your detriment. Your real property is yours, yours to do what you want with, not what you are told to do with it. That's why you bought it and that's why others still aspire to experience the American dream of home ownership without it being given to them.

KEE Construction, LLC



DATE: January 19, 2022

TO: KPB Assembly Members

SUBJECT: KPB 2021-41 Version 1
Material Site Permits, Applications, Conditions and Procedures

RE: Assembly Mtg January 18th Testimony

I was asked by multiple Assembly Members to discuss or provide my testimony regarding KPB2021-41 V1. Below are the talking points that I prepared prior to the Assembly meeting. Not all this information was included in my testimony due to time constraints and/or the climate of the chambers.

21.29.030.A.9 (Application Requirements)

Requiring that the site plan be prepared by a licensed surveyor is outside the Surveyors' area of work. Surveyors don't offer site development plan services. The portion of the application that should require a licensed and registered surveyor should be limited to the boundary survey, encumbrances, location and elevation of test holes, adjacent well locations, and location of water bodies. Essentially, a property as-built and boundary survey.

If KPB wants to require a professional to prepare the CLUP site development plan, then the ordinance should specify that a licensed Civil Engineer prepare the remainder of the required items.

The ordinance should require that site elevations (including those of test holes and groundwater) tie to a published datum or benchmark. Otherwise, each site may reference an assumed elevation and not a real-world elevation.

21.29.030.A.9(m) says 'field verification shall include staking the boundary of the parcel as sequentially visible intervals'. This conflicts with 21.29.050.A.1 which says 'stakes shall be in place prior to the issuance of the permit'. It is my recommendation that staking the parcel should be part of the field verification process otherwise prior to application.

21.29.050.A (Permit Conditions)

21.29.050.A.2. Buffer Zones. I caution the Assembly on continuing to increase buffer width requirements without granting the Applicant a means to extract the material that is under or within the buffer zone. Gravel is a commodity that is utilized by all and will continue to be so. By providing the mechanisms for a material site to responsibly extract as much gravel as possible from said site, there becomes less need for additional material sites.

21.29.050.A.6 Waterbodies. The US Army Corps of Engineers no longer has jurisdiction on wetlands that are not connected to Waters of the US. Waterbody setbacks should not apply to these isolated wetlands. These isolated wetlands are often ideal locations of peat mining and often have marketable sand or gravel beneath the peat.

Page 1 of 2



21.29.050.A.21 Groundwater Elevation. Recommend adding that the groundwater monitoring tube be installed when excavation is within 10' or such of the groundwater elevation. Many of the area material sites exceed 20' of usable material and installing a monitoring tube to this depth is a major undertaking. As an example, installing a 25' deep monitoring tube would require an excavation of approximately 2,500 SF hole to gain that depth utilizing traditional excavation equipment.

21.29.050.A.13. Other Permits. Alaska Department of Natural Resources (Division of Land and Water) should be added to this list.

21.29.060 Reclamation Plan. ADNR updated their requirements for Material Sales Reclamation Plans in June 2021. This should be reviewed in context to KPB's reclamation requirements. ADNR has set per-acre bond amount at \$750/acre. ADNR allows for an operator to post bond with another government agency as allowed by a cooperative management agreement between that agency and ADNR Division of Land and Water. Does the Borough have a cooperative management agreement with ADNR? Otherwise, there is the potential for material site operators to have to 'double-bond' for reclamation.

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
McLane Consulting, Inc.

Introduced by:	Martin
Substitute Introduced:	03/14/06
O2006-01 (Long, Martin, Superman)	See Original Ord for Prior History
Hearing:	03/14/06
Action:	Substitute Introduced and Set for Public Hearings on 04/04/06 and 04/18/06
	Additional Hearing on 05/16/06
Action:	Postponed until 04/18/06
Action:	Time did not Allow for Action
Date:	05/02/06
Action:	Postponed until 05/16/06
Action:	Additional Hearing on 08/01/06
Date:	05/16/06
Action:	Postponed until 08/01/06
Action:	Enacted as Amended
Vote:	8 Yes, 0 No, 0 Absent, 1 Abstention

**KENAI PENINSULA BOROUGH
ORDINANCE 2006-01 (MARTIN) SUBSTITUTE**

**AN ORDINANCE REPEALING KPB CHAPTER 21.26 AND ENACTING KPB
CHAPTER 21.29, MATERIAL SITE PERMITS**

WHEREAS, Goal 6.5, Objective 1 of the 2005 Kenai Peninsula Borough Comprehensive Plan is to ensure that land use regulations adopted by the borough are necessary to control uses that affect public health and safety and address adverse impacts on the rights of adjacent property owners; and

WHEREAS, Goal 6.5, Objective 1, Implementation Action A, is to continue to periodically review and update existing regulations to reflect changing conditions and policies in the borough; and

WHEREAS, Goal 6.6 of the 2005 comprehensive plan is to reduce land use conflicts outside of the cities; and

WHEREAS, Goal 6.6, Objective 1, Implementation Action D, is to improve the land use regulations currently in existence including those related to material sites to minimize the impacts of erosion and flooding of neighboring properties and to minimize conflicts with surrounding land uses; and

WHEREAS, Goal 7.1, Objectives 1 and 2, of the 2005 comprehensive plan are to work with other agencies to protect public health and environment, to avoid duplications of other agencies' regulations, and to provide input to federal and state agencies on local conditions and opinions; 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, a review of the material site ordinance was undertaken in 1998 after a citizen task force comprised of citizens and industry made recommendations; and

WHEREAS, the mayor sponsored Ordinance 98-33 after considering the task force recommendations and supplementing the same; and

WHEREAS, assembly members sponsored a substitute Ordinance 98-33 which was ultimately adopted in 1999; and

WHEREAS, the planning department has been administering Ordinance 98-33, codified as KPB 21.26 as amended, for six 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 department receives comments expressing concerns about dust, noise, and aesthetics which are minimally addressed by the current code; and

WHEREAS, there are parcels registered as nonconforming prior existing uses which have not been operated as material sites for a number of years; 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, and unsightliness; and

WHEREAS, an assembly subcommittee was formed in 2005 to review the material site code; and

WHEREAS, at its regularly scheduled meeting of July 17, 2006, the Planning Commission recommended enactment of the amended ordinance by unanimous consent.

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

SECTION 1. KPB 21.26 Material Site Permits is hereby repealed and KPB 21.29, Material Site Permits, is adopted 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 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 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 permit.

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 appropriate fee as established by resolution of the planning commission and approved by the borough assembly. 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. 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 of test holes, and depth of groundwater, if encountered;
 - 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. location of any processing areas on parcel, if applicable;
 - k. north arrow;
 - l. the scale to which the site plan is drawn;
 - m. preparer's name, date and seal;
 - n. 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.
- 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 properties;
 - 3. minimizes off-site movement of dust;
 - 4. minimizes noise disturbance to other properties;

5. minimizes visual impacts; and
6. 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 Boundaries.** All boundaries of the subject parcel 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.
 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.
- 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 property 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.
 - 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.
 - 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 linear feet from 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.

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- 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 property at the time.
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 - 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.

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 - 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.
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 - 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 p.m. and 6 a.m.
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.
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 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 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 permit conditions apply to the subject parcel and operation, regardless of a change in ownership. A change in voluntary permit conditions may be proposed at permit renewal or amendment.
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.

21.29.060. Reclamation plan.

- A. All material site permit applications require a reclamation plan.
- 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.
- C. The following measures must be considered in preparing and implementing 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.
 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 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 topsoil mine operations shall ensure a minimum of two inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).
 6. Ponding may be used as a reclamation method as approved by the planning commission.
- D. The plan shall describe the total acreage to be reclaimed each year, a list of equipment (type and quantity) to be used in reclamation, and a time schedule of reclamation measures.

21.29.070. Permit extension and revocation.

- A. Conditional land use permittees must submit a request in writing for permit extension every five years after the permit is issued. Requests for permit extension must be made at least 30 days prior to permit expiration. Counter permittees must submit any request for a 12-month extension at least 30 days prior to the expiration of the original 12-month permit period.
- B. A permit extension certificate for a CLUP may be granted by the planning director after 5 years, and after one year for a counter permit where no modification to operations or conditions are proposed.

- C. Permit extension may be denied if: (1) reclamation required by this chapter and the original permit has not been performed; (2) the permittee is otherwise in noncompliance with the original permit conditions; or (3) the permittee has had a permit violation in the last two years and has not fulfilled compliance requests.
- D. A modification application shall be processed pursuant to KPB 21.29.030-050 with public notice given as provided by KPB 21.25.060 when operators request modification of their permit conditions based on changes in operations set forth in the modification application.
- E. There shall be no fee for permit extensions approved by the planning director. The fee for a permit modification processed under KPB 21.29.070(D) will be the same as an original permit application.
- 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 21.25.080.

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 21.24.
- B. In addition to the remedies provided in KPB 21.24, 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 21.24, 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.

SECTION 2. That KPB 21.24.030(C) is hereby amended as follows:

C. Fine Schedule. The following fines are the scheduled fines for violations. The scheduled fine for an offense may not be judicially reduced.

<i>Code Chapter Section Citation</i>	<i>Chapter / Section Title</i>	<i>Scheduled Fine</i>
KPB 21.06.040	Failure to obtain a development permit	\$75.00
KPB 21.09.060	Violation of nonconforming use/structure provisions	\$50.00
KPB 21.09.070	Prohibited use	\$100.00
KPB 21.09.080	Violation of development standards	\$50.00
KPB 21.09.090(A)	Violation of home occupation standards	\$100.00
KPB 21.09.090(B)	Sign size violation	\$50.00
KPB 21.09.090(C)	Prohibited home occupations	\$100.00
KPB 21.14.030	Failure to obtain a mobile home park permit	\$75.00
KPB 21.18.050(A)	Failure to obtain fuel storage/logging permit	\$75.00
KPB 21.18.060	Prohibited activity in habitat protection area	\$100.00
KPB 21.18.072	Failure to obtain commercial activity permit	\$75.00
KPB 21.18.080	Failure to obtain a conditional use permit	\$75.00
KPB 21.18.090(D)	Failure to obtain expansion/enlargement conditional use permit	\$100.00
KPB 21.24.050	Violation of or removal of an enforcement order	\$100.00
KPB 21.25.040	Failure to obtain land use permit	[\$75.00] <u>\$300.00</u>
<u>KPB 21.29.050</u>	<u>Violation of conditions</u>	<u>\$300.00</u>
KPB 21.42.060	Violation of nonconforming use/structure provisions	[\$75.00] <u>\$300.00</u>
KPB 21.42.090	Prohibited use	\$100.00
KPB 21.42.100	Violation of development standards	\$50.00
KPB 21.42.110(D)	Failure to obtain a home occupation permit	\$75.00
KPB 21.44.110	Violation of nonconforming use standards	\$75.00
KPB 21.44.130	Failure to obtain a home occupation permit	\$75.00
KPB 21.44.160(A)(B)	Prohibited use	\$100.00
KPB 21.44.160(C)	Violation of development standards	\$50.00
KPB 21.44.170(A)(B)	Prohibited use	\$100.00
KPB 21.44.170(C)	Violation of development standards	\$50.00
KPB 21.44.180(A)(B)	Prohibited use	\$100.00
KPB 21.44.180(C)	Violation of development standards	\$50.00
KPB 21.44.190(A)(B)	Prohibited use	\$100.00
KPB 21.44.190(C)	Violation of development standards	\$50.00

KPB 21.44.200(A)	Prohibited use	\$100.00
KPB 21.44.200(B)	Violation of development standards	\$50.00
KPB 21.44.210(B)(C)	Prohibited use	\$100.00
KPB 21.44.210(D)	Violation of development standards	\$50.00

SECTION 3. That KPB 21.24.070 is hereby amended as follows:

21.24.070. Civil fine.

The Borough code compliance officer may assess a [\$100.00] \$300.00 civil fine for each violation of this chapter. Notice of a fine shall be served personally or by certified mail on the property owner, lessee, operator, or occupant of the parcel upon which the violation occurs. The fine may be appealed to the Planning Commission pursuant to the terms of KPB 21.20. Each day a violation occurs is a separate violation. Citations for fines may be included in an enforcement order. Appeals from the planning commission's determination shall not be taken to the board of adjustment, but shall proceed to the superior court pursuant to the Alaska Rules of Appellate Procedure, Part 6.

SECTION 4. KPB 21.25.030, Definitions, is amended to add the following definitions in alphabetical order:

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.

Commercial means any [USE] 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[, AND INCLUDING ALL ACTIVITIES DIRECTLY SUBSIDIARY].

Conditioning or processing material means a value-added process including batch plants, asphalt plants, screening, washing, and crushing by use of machinery.

Groundwater means, in the broadest sense, all subsurface water, more commonly that part of the subsurface water in the saturated zone.

[ON-SITE USE MEANS MATERIAL USED ENTIRELY WITHIN THE BOUNDARIES OF THE PARCEL IT WAS EXTRACTED FROM, OR WHEN

DEVELOPMENT OF THE PARCEL REQUIRES DISPOSAL OF THE MATERIAL OFF-SITE THROUGH BARTERING.]

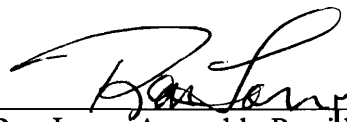
Surface Water means water on the earth's surface exposed to the atmosphere such as rivers, lakes, and creeks.

Topsoil means material suitable for vegetative growth.

Waterbody means any lake, pond, stream, riparian wetland, or groundwater into which stormwater runoff is directed.

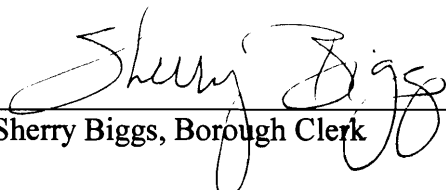
SECTION 5. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 1ST DAY OF AUGUST, 2006.

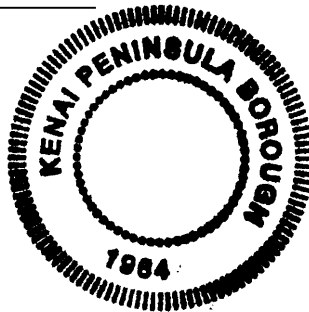


Ron Long, Assembly President

ATTEST:



Sherry Biggs, Borough Clerk



Yes: Chay, Fischer, Germano, Gilman, Martin, Sprague, Superman, Long
No: None
Absent: None
Abstained: Merkes

Introduced by:	Mayor
Substitute Introduced:	01/16/18
Resolution 2018-004 (Mayor)	See Original for Prior History
Action:	Adopted
Vote:	8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2018-004
(MAYOR) SUBSTITUTE**

A RESOLUTION ESTABLISHING A MATERIAL SITE WORK GROUP

WHEREAS, KPB 21.25.040(A)(2) requires a permit for the commencement of commercial sand, gravel or material sites within the rural district of the Kenai Peninsula Borough; and

WHEREAS, KPB 21.29 provides for a permit process to extract material from the ground; and

WHEREAS, with the exception of one minor change relating to floodplain permits, the material site code was last updated in 2006; and

WHEREAS, the assembly, administration, planning department and the planning commission have recognized that certain provisions of the material site ordinance can be clarified for the operators, public, and staff; and;

WHEREAS, the public has expressed many concerns about dust, noise, water, and negative secondary impacts of material sites; and

WHEREAS, it is the intent of the assembly and administration to involve the public and industry in a collaborative discussion designed to incorporate possible changes to the material site code;

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

SECTION 1. That a work group is established for the purpose of examining the current material site permit process and potentially recommending amendments to the material site code provisions.

SECTION 2. That the work group shall consist of at least two assembly members; two planning commissioners; two members of the public; and, two material site industry members. The group shall elect from among its members a chair and a vice-chair who may serve in the absence of the chair. The two members of the assembly shall be appointed by the assembly. The remaining members shall be appointed by the mayor.

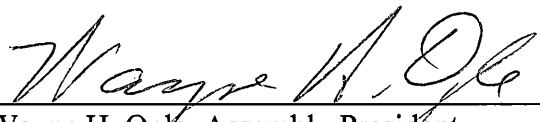
SECTION 3. That each meeting time and place shall be advertised, open to the public and subject to the Open Meetings Act.

SECTION 4. The material site work group shall have no authority to act on behalf of the assembly or the administration or communicate on the borough's behalf other than to make recommendations to the planning commission, administration and assembly.


SECTION 5. The work group shall provide a final report to the planning commission, administration and assembly by June 5, 2018, and then discontinue unless extended by the assembly.

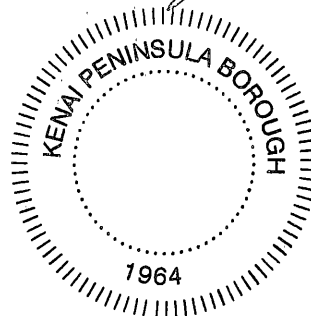
SECTION 6. That this resolution shall take effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF JANUARY, 2018.


Wayne H. Ogle, Assembly President

ATTEST:


John Blankenship, MMC, Borough Clerk



Yes: Bagley, Blakeley, Carpenter, Dunne, Fischer, Hibbert, Smalley, Ogle
No: None
Absent: Cooper

Introduced by: Ogle
Date: 05/15/18
Action: Adopted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2018-025**

**A RESOLUTION EXTENDING THE DEADLINE FOR SUBMISSION OF THE
MATERIAL SITE WORKING GROUP'S FINAL REPORT**

WHEREAS, a material site working group ("MSWG") was formed by Resolution 2018-004 on January 16, 2018; and

WHEREAS, a final report is due to the administration, planning commission and assembly by June 5, 2018; and

WHEREAS, the MSWG needs additional time to consider proposed revisions to the material site code, explore additional revisions, and hear and consider public testimony regarding the same; and

WHEREAS, the summer months are the most active for material site operators who may not have time to be involved in the public process during that time frame; and

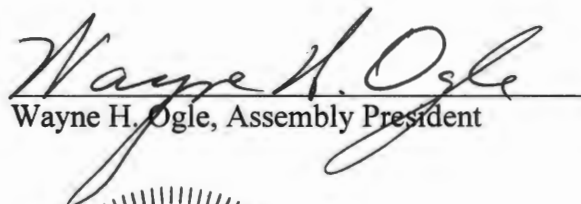
WHEREAS, the planning commission considered this resolution at its May 14, 2018 meeting and recommended approval by majority consent;

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

SECTION 1. The deadline for the final report of the MSWG is extended to April 30, 2019. Meetings of the MSWG are suspended from June 1, 2018 through September 30, 2018.

SECTION 2. That this resolution takes effect immediately upon its adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS
15TH DAY OF MAY, 2018.**


Wayne H. Ogle, Assembly President

ATTEST:


John Blankenship, MMC, Borough Clerk



Yes: Bagley, Blakeley, Carpenter, Cooper, Dunne, Fischer, Hibbert, Smalley, Ogle
No: None
Absent: None

Kenai Peninsula Borough Assembly

MEMORANDUM

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

FROM: Bill Elam, Assembly Member *BE*

DATE: January 18, 2022

SUBJECT: Elam Amendment #1 to Ordinance 2021-41, Amending KPB 21.29, KPB 21.25, and KPB 21.50.055 Regarding Material Site Permits, Applications, Conditions, and Procedures (Johnson, Mayor)

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

➤ Amend Section 3, KPB 21.29.030(A)(9)(h), as follows:

21.29.030. Application procedure.

...

- h. Location of any water body on the parcel, including the location of any riparian wetland as determined by **best available data** [~~**"WETLAND MAPPING AND CLASSIFICATION OF THE KENAI LOWLAND, ALASKA" MAPS CREATED BY THE KENAI WATERSHED FORUM**~~];

Your consideration of this amendment is appreciated.