



## Kenai Planning & Zoning Commission - Regular Meeting

July 24, 2019 – 7:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

<https://www.kenai.city>

### AGENDA

#### A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Agenda Approval
4. Consent Agenda
5. \*Excused Absences

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

#### B. APPROVAL OF MINUTES

1. \*June 26, 2019

#### C. SCHEDULED PUBLIC COMMENT

*Public comment limited to ten (10) minutes per speaker)*

1. Presentation on Land Sale and Leasing Policies and Procedures by Assistant to City Manager, Christine Cunningham.

#### D. UNSCHEDULED PUBLIC COMMENT

*(Public comment limited to three (3) minutes per speaker;  
thirty (30) minutes aggregated)*

#### E. CONSIDERATION OF PLATS

1. **Resolution PZ2019-24** – Original Preliminary Plat of Shoreline Heights Thiele Replat, submitted by Edge Survey and Design LLC, 43335 K-Beach Rd., Ste. 16b, Soldotna, AK 99669, on behalf of the Kim Thiele, 36901 Mallard Road, Kenai, AK 99611

#### F. PUBLIC HEARINGS

1. [Resolution PZ2019-25](#) – Application for a Conditional Use Permit to operate a Guide Business, located at 1325 Angler Drive, Kenai, Alaska 99611, and further described as Lot 18, Block 1, Anglers Acres Part Two. The application was submitted by Jeff Bressler, P.O. Box 271, Kasilof, AK 99610.

**G. UNFINISHED BUSINESS**

**H. NEW BUSINESS**

1. [Resolution PZ2019-26](#) – Application for Transfer of Conditional Use Permit PZ75-54 for Operation of a Gravel Pit for Extraction of Natural Resources, from the Estate of Mavis Cone, Transferor, to Colaska, Inc. dba QAP, Transferee, located at 2817, 2881, 3073 Beaver Loop Road, 1605 Cone Avenue, and 835 Gravel Street, Kenai, Alaska 99611, and further described as Tracts 1 and 2, Tundra Rose Subd. according to Plat No. 84-19; a Portion of the NW1/4 NW1/4 Lying North of Beaver Loop Rd, Section 11, T5N, R11W, Excluding Tundra Rose Subd.; the West 990 Feet of the South 660 Feet Excluding Therefrom the West 330 Feet, Section 2, T5N, R11W; and the West 330 Feet of the South 660 Feet, Section 2, T5N, R11W.

**I. PENDING ITEMS**

**J. REPORTS**

1. City Council
2. Borough Planning
3. Administration

**K. ADDITIONAL PUBLIC COMMENT**

*(Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated)*

**L. INFORMATIONAL ITEMS**

1. Planning and Zoning Resolutions – Second Quarter 2019
2. Building Permits – Second Quarter 2019
3. Code Enforcement – Second Quarter 2019

**M. NEXT MEETING ATTENDANCE NOTIFICATION**

1. August 14, 2019

**N. COMMISSION COMMENTS AND QUESTIONS**

**O. ADJOURNMENT**

**KENAI PLANNING & ZONING COMMISSION  
REGULAR MEETING  
JUNE 26, 2019 – 7:00 P.M.  
KENAI CITY COUNCIL CHAMBERS  
210 FIDALGO AVENUE, KENAI, ALASKA  
CHAIR JEFF TWAIT, PRESIDING**

**MINUTES**

**1. CALL TO ORDER**

Commission Chair Twait called the meeting to order at 7:00 p.m.

- a. Pledge of Allegiance

Commission Chair Twait led those assembled in the Pledge of the Allegiance.

- b. Roll Call

Commissioners present: Chair J. Twait, Vice-Chair D. Fikes, R. Springer, V. Askin, T. McIntyre, J. Halstead, G. Greenberg

Commissioners absent: G. Greenberg

Staff/Council Liaison present: City Planner E. Appleby, Planning Assistant W. Anderson, City Clerk J. Heinz, City Manager P. Ostrander, Council Liaison B. Molloy

A quorum was present.

- c. Agenda Approval

**MOTION:**

Commissioner Askin **MOVED** to approve the agenda as presented with the inclusion of the amendment memo for item 6a and Commissioner Halstead **SECONDED** the motion. There were no objections; **SO ORDERED**.

- d. Consent Agenda

**MOTION:**

Commissioner Halstead **MOVED** to approve the consent agenda and Commissioner Greenberg **SECONDED** the motion. There were no objections; **SO ORDERED**.

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

e. \*Excused absences – None.

2. **\*APPROVAL OF MINUTES**

a. June 12, 2019

The minutes were approved by the Consent Agenda.

3. **SCHEDULED PUBLIC COMMENT** – None.

4. **UNSCHEDULED PUBLIC COMMENT** – None.

5. **CONSIDERATION OF PLATS** – None.

6. **PUBLIC HEARINGS**

a. **Resolution PZ2019-23** – Application for Amendment to Conditional Use Permit PZ2018-16 to remove the hours of operation restriction for the Retail Marijuana Store, submitted by Clint A. Pickarsky d/b/a Kenai River Cannabis, P.O. Box 1016, Soldotna, AK 99669, for the property described as Lot 4, Block 1, Bush Lanes Subdivision, located at 14429 Kenai Spur Highway, Kenai, Alaska 99611

**MOTION:**

Commissioner Springer **MOVED** to approve Resolution No. PZ2019-23 recommendations and Commissioner Halstead **SECONDED** the motion.

City Planner Appleby reviewed the staff report provided in the packet noting the amendment to the Conditional Use Permit would remove the hours of operation restriction and, based on the review of criteria, found that the permit could be approved with the following conditions:

- Further development of the property shall conform to all State and local regulations;
- A building permit will be required for the remodeling of the Commercial Marijuana Establishment as shown on the submitted floor plan;
- Prior to the operation of the Commercial Marijuana Establishment, the property owner shall submit a copy of an approved Business License issued by the State of Alaska, Department of Commerce, Community, and Economic Development;
- Prior to the operation of the Commercial Marijuana Establishment, the property owner shall submit a copy of an approved and fully executed license from the Alaska Alcohol and Marijuana Control Board. The applicant shall comply with all regulations as stipulated by the State of Alaska Marijuana Control Board;
- Pursuant to Kenai Municipal Code Section 14.20.330(e), the Commercial Marijuana Establishment shall not emit an odor that is detectable by the public from outside the Commercial Marijuana Establishment;
- A sign permit will be required for the construction of any proposed signage;
- Applicant shall file an annual report for the Conditional Use Permit as set forth in Kenai Municipal Code 14.20.155.

City Manager Ostrander noted the hours of operation requirement placed an inequity between retail stores in the City and regardless of the change of hours the applicant requested, a better

avenue to restrict hours of operation would be by ordinance.

Chair Twait opened the floor for public testimony.

Marilyn Wheelless noted she was a proponent of legalizing commercial marijuana; however, she wasn't in favor of the hours of operation being so broad noting the added traffic, headlights, doors slamming, and the like brought by the establishment. She also noted the operator had erratic hours and that she didn't appreciate the giant green "Gumby" across from her house. Ms. Wheelless spoke in favor of an ordinance to limit all marijuana retail stores to specific hours

Clint Pickarsky noted he lived in Sterling and ran his business in Kenai, in compliance with Alcohol and Marijuana Control Office Regulations regarding lights and signage.

There being no one else wishing to be heard, public comment was closed.

**MOTION TO AMEND:**

Commissioner Springer **MOVED** to amend by replacing the fourth whereas clause with the following "removing the condition for specific operating hours would still meet the criteria for the issuance of the of the conditional use permit; and," and Commissioner Halstead **SECONDED** the motion.

It was suggested that because this particular business was the last one, and hours of operation had been discussed in previous Conditional Use Permit proceedings, could have been the reason hours of operation were added to this particular Permit.

**VOTE ON THE AMENDMENT:**

YEA: Springer, Halstead, Fikes, Askin, Twait, McIntyre, Greenberg

NAY:

**MOTION PASSED UNANIMOUSLY.**

There was discussion in favor of restricting hours of operation but doing it by ordinance instead of by Conditional Use.

Hours of operation for other retail stores in the City were provided.

**VOTE ON THE MAIN MOTION:**

YEA: Springer, Halstead, Fikes, Askin, Twait, McIntyre, Greenberg

NAY:

**MOTION PASSED UNANIMOUSLY.**

Commission Chair Twait noted the fifteen-day appeal period.

7. **UNFINISHED BUSINESS** – None.

8. **NEW BUSINESS**

- a. **Resolution PZ2019-22** – Application for a Home Occupation Permit to operate a daycare of no more than eight (8) children under the age of twelve (12), including children related to the caregiver, submitted by Glenn and Charlotte Yamada, 1806 4<sup>th</sup> Avenue, Kenai, Alaska 99611, for property described as lot 1-C, Block 1, Spruce Grove Subdivision, Murphy’s Replat.

**MOTION:**

Commissioner Askin **MOVED** to approve Resolution No. PZ2019-22 with staff recommendations and Commissioner Halstead **SECONDED** the motion.

City Planner Appleby reviewed the staff report provided in the packet noting the applicant had operated the business in a former location and wanted to move her business and, based on the review of criteria, found that the Home Occupation Permit could be approved with the following conditions:

- Further development of the property must comply with all federal, State of Alaska, and local regulations;
- Pursuant to KMC 14.20.230(h)(1), the premises shall be inspected every other year by the Fire Marshal for the City of Kenai. Failure to comply with the Fire Code (KMC 8.05) shall be grounds for the suspension or revocation of the facilities’ home occupation permit.

**VOTE:**

YEA: Springer, Halstead, Fikes, Askin, Twait, McIntyre, Greenberg

NAY:

**MOTION PASSED UNANIMOUSLY.**

9. **PENDING ITEMS** – None.

10. **REPORTS**

- a. **City Council** – Council Member Molloy reviewed the action agenda from the June 19 City Council Meeting and provided an overview of the July 3 draft agenda.
- b. **Borough Planning** – Vice-Chair Fikes reported the Commission met on June 24 and provided an update on the actions at that meeting.
- c. **Administration** – City Planner Appleby reported on the following:
  - Upcoming meetings;
  - An upcoming presentation on the land code changes;
  - Upcoming Dipnet Operations;
  - Environmental Impact Statement for the Alaska LNG project had been delayed;
  - Fiscal Year 2020 began July 1.

11. **ADDITIONAL PUBLIC COMMENT** – None.

12. **INFORMATIONAL ITEMS** – None.

**13. NEXT MEETING ATTENDANCE NOTIFICATION** – July 24, 2019

It was noted the July 10 meeting would be cancelled for lack of a quorum.

**14. COMMISSION COMMENTS & QUESTIONS**

Commissioner Halstead requested a resolution recommending an ordinance setting hours of operations for the retail marijuana stores be brought forth at a future meeting; also expressed appreciation for the various reports.

Commissioner Greenberg agreed with the request for a resolution recommending an ordinance to set hours of operations and that the businesses be contacted when developing hours of operation.

Commissioner Springer also agreed with the request for a resolution recommending an ordinance to set hours of operations, clarified alcohol and marijuana licensees all had the same hours of operation requirements in state regulations, and suggested consulting with the attorney on singling out the marijuana industry on hours of operations.

Commissioner Fikes also agreed with the request for a resolution recommending an ordinance to set hours of operations and suggested businesses across the industry be consulted to make a fair playing field and to get input from law enforcement as well.

**15. ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 7:56 p.m.

Minutes prepared and submitted by:

---

Jamie Heinz, CMC  
City Clerk





An aerial photograph of a coastal town and airport. The town is built on a peninsula with a rocky coastline. The airport is located inland from the town. In the background, there are mountains with snow-capped peaks under a blue sky with light clouds. The foreground shows a large body of water and a muddy delta area.

# LAND SALE AND LEASING

## POLICIES AND PRACTICES

Land Sale and Leasing  
Policies and Practices  
Working Group:

City Manager Paul Ostrander  
Assistant to City Manager Christine Cunningham  
Finance Director Terry Eubank  
Airport Manager Mary Bondurant  
City Planner Elizabeth Appleby  
City Attorney Scott Bloom

July 10, 2019

# TABLE OF CONTENTS

---

Introduction .....	p. 2
Background .....	p. 3
Where We Are .....	p. 5
Objectives .....	p. 6
Recommendations .....	p. 7
Action Plan .....	p. 17
Timeline .....	p. 17
Appendix .....	p. 18

Draft Land Management Plan  
Draft KMC Revisions Title 22

## INTRODUCTION

One of the City's greatest assets is its land inventory. Utilizing City lands to spur economic growth and improve the quality of life for Kenai residents is key to the long-term viability of the City. Major initiatives for the upcoming year include creating an environment to attract businesses and industries that are necessary to maintain and grow the local economy and continuing work towards a Land Management Plan, which includes an inventory of all City-owned lands.

A working group of City staff involved in land management met over the past two years to evaluate and develop recommendations related to City-owned lands. In 2018, the group focused on proposals to simplify and streamline the City's lease program on the Airport to encourage growth, development, and a thriving business community through reasonable and responsible land policies and practices. The initial recommendations included a City-wide Land Management Plan, Kenai Municipal Code revisions for Airport Reserve properties, updates to forms and procedures, and affirmative marketing of Airport Lands.

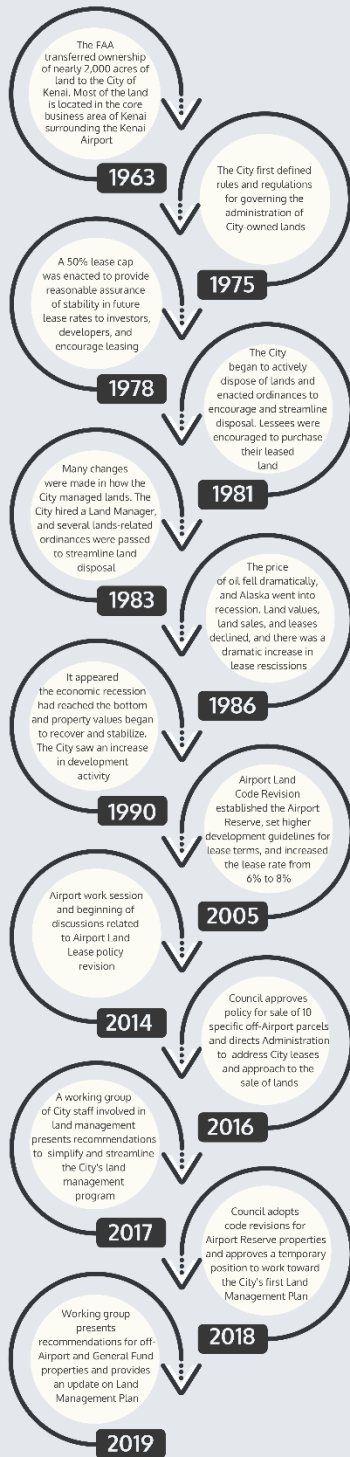
The following recommendations expand on the previous Airport Reserve recommendations to include all City-owned properties both on and off the Airport as part of the City's Land Management Plan.



# CITY OF KENAI LAND LEASING AND SALES



How has the City of Kenai restructured its land leasing and sales policies over the years?



Today, the City is experiencing a renewed interest in City-owned lands and has taken a City-wide approach to land management. Recommendations provide land policies and practices that encourage responsible growth and development to support a thriving business, residential, recreational and cultural community.

## BACKGROUND

In 1963, the FAA transferred ownership of nearly 2,000 acres of land to the City of Kenai. Most of the property is located in the core business area of Kenai surrounding the Kenai Airport, and the sale of some of these lands formed the basis for economic development in Kenai. The 1963 deed requires the land be managed for airport activities and support of the Airport and requires the written consent of the FAA to sell or lease land for non-airport activities. Subsequent deeds of release have been obtained, allowing some properties to be leased or sold.

The City has also received title to lands over the years from the State of Alaska and Bureau of Land Management as well as through Kenai Peninsula Borough foreclosures or private donations. Many of the conveyance documents contain restrictions, reversionary clauses, or are otherwise restricted by ordinances setting the land aside for a public purpose. However, the land deeded to the City by the FAA has been the focus of most of the City's lands policy decisions.

In 1975, the City first defined rules and regulations governing the administration of City-owned lands. In 1978, a provision for a 50% lease cap was enacted to provide reasonable assurance of stability in future lease rates to investors, and developers, which would encourage leasing.

In 1981, the City began to actively dispose of lands and enacted ordinances to encourage and streamline disposal. When applicable, lessees were encouraged to purchase their leased land. With the City entering into a program of land sales, use of the lease rate cap, which required increasing transfers from the General Fund to the Airport Fund, had outlived its usefulness and was restricted to property used for aeronautical purposes.

In 1983, the City made many changes to land management policies. The City hired a Land Manager, and several lands-related ordinances were passed to streamline land disposal. However, the price of the oil fell dramatically in 1986 and Alaska went into recession. This was a year of decline in land values, land sales, and leases. As property values continued to drop in 1987, there was a dramatic increase in lease rescissions. By 1990, it appeared that the economic recession had reached the bottom and was taking a gradual upturn.

In 2006, the Airport land sale and leasing code sections were repealed and reenacted as a result of recommendations in the Supplemental Airport Master Plan. The new code established the Airport Reserve, prohibited land sales within the Reserve, amended guidelines for setting the length of the lease terms with higher investment requirements and a maximum 35-year

term. The revised policy added additional requirements for lease applicants, eliminated the ability of new lessees to have the right to purchase once a development plan had been completed, increased the capitalization rate used to calculate rental rates from 6% to 8%, and established a new method of setting and adjusting land rents based on an airport-wide zone-based appraisal.

The City deviated from the new code provisions through non-code Ordinances to enter into each new lease between 2007 and 2018 as well as to facilitate negotiated sales of land. In 2015, Administration conducted an economic analysis of income (revenue) to the Airport, which compared leasing versus sale of two unsolicited offers to purchase properties assuming a 50-year period. It was determined that the Airport would lose revenue in a sale, and the City declined the offers.

In 2016, the City updated zoning within the Airport Reserve and relocated the Airport Reserve boundary. That same year, the City Council approved a policy for the sale of ten specific Airport leased lands with substantial constructed leasehold improvements. The policy is in effect for five years (expires in July of 2021) and, recognizing the value of a lease with a guaranteed revenue stream, approves a sale at 125% of fair market raw land appraisal with the lessee paying for appraisal costs.

Although the City's land leasing and sale program has been restructured over the years, the approach has been to manage land as situations arise and without an active management plan or strategy. In 2018, City Council approved recommended revisions to the leasing program in the Airport Reserve, amended the sale policy for ten specific Airport Fund properties to provide alternatives to encourage investment, and approved a City-wide approach to land management through the development of the City's first Land Management Plan.



The City of Kenai  
is experiencing  
renewed interest in  
City-owned lands  
and is taking a City-wide  
approach to land  
management.

## WHERE WE ARE

The City is unique in its ownership of a large and diverse amount of public land, owning a total of 356 subdivided parcels of which 233 are designated General Fund, and 126 are designated Airport Fund. Nineteen (19%) of City-owned parcels are currently under lease, generating an annual revenue of approximately \$653,356.

The City of Kenai is unique in its ownership of a large and diverse amount of public land.

Many vacant parcels are suitable for a variety of business, commercial, industrial, residential, recreational and cultural purposes:

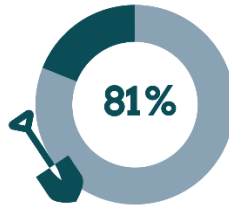
- Retail, Service and Office Space
- Transportation, Aviation and Marine-related Services
- Tourism, Art and Culture
- Warehouse, Production and Manufacturing Facilities
- Youth Sports and Outdoor Recreation
- Single and Multi-Family Housing
- Community Events and Festivals

Inside the Airport Reserve, 27 parcels are currently under lease and approximately 20 subdivided parcels are available for lease. Outside the Airport Reserve, approximately 14 Airport Fund parcels are currently under lease, of which ten specific properties have been approved for sale, and approximately 30 parcels remain available for lease. The General Fund has 22 parcels currently under lease and an undetermined number of lands available for lease or sale. Approximately 30% of City leases are in the latter half of the lease (not including Shorefishery leases renewed in 2016), and another approximately 12% have lease terms with over 80 years remaining and no incentive to maintain or improve the permanent improvements on the premises.

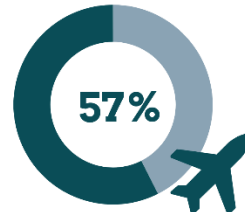
The City received **\$653,356**  
in Annual Lease Revenue in 2018



General Fund Parcels Under Lease



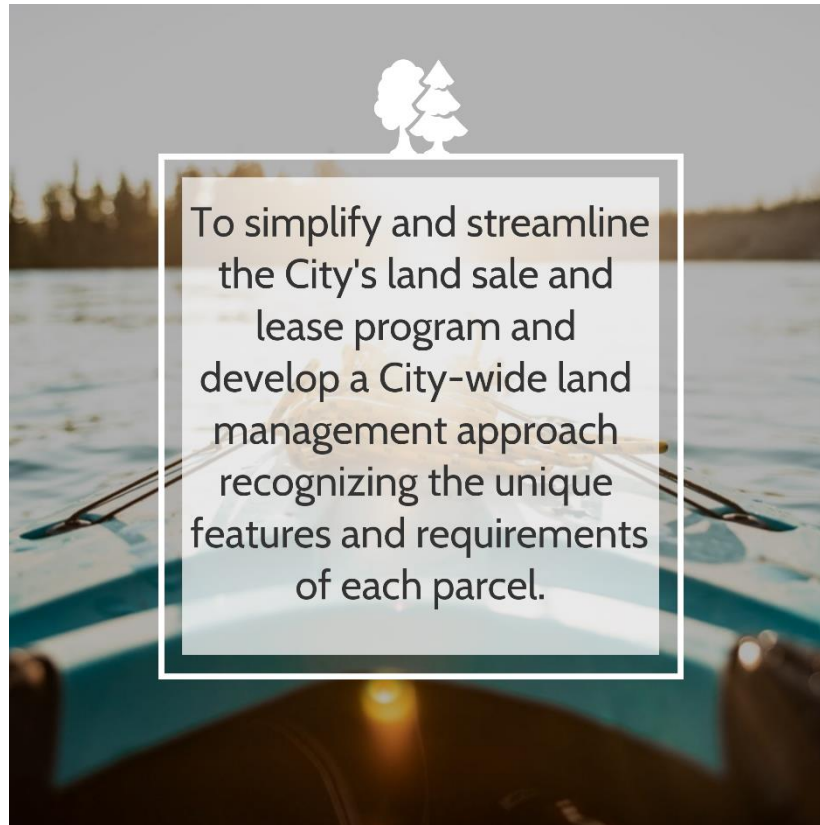
City-wide Unleased Parcels



Airport Fund Parcels Under Lease

## OBJECTIVES

Utilizing the 2018 revisions to the leasing program for the Airport Reserve as a starting point, the working group took a City-wide approach to land management that looked at both General Fund and Airport Fund properties outside the Airport Reserve. The goal of the working group was to follow similar changes made for the Airport Reserve properties with regard to lease and expand the objectives to simplify and streamline the City's land management program to provide a uniform approach for both lease and sale.



The working group defined the following objectives to help achieve this goal:

- City-wide Approach to Land Management
- Business-friendly Rules
- Policy Predictability
- Uniform Application of Policies
- Prevent Land Speculation
- Promote Economic Development

The following recommendations apply to all City-owned lands with the exception of on-Airport property and tidelands.

# RECOMMENDATIONS

## 1. LAND MANAGEMENT PLAN

A City-wide Land Management Plan is an active approach that requires an inventory of the City's land holdings. An analysis is needed for each parcel in terms of any conveyance, legislative restrictions or need for public use as well as the potential economic and other benefits to the City.

The Land Management Plan provides a comprehensive evaluation and characterization of each City-owned parcel to guide the decision-making process to include the following elements:

- Property Description (e.g. physical characteristics, zoning, land use)
- Facilities (e.g. parks, trails, structures, rights-of-way, utilities)
- Status (e.g. public use, under active lease, available for lease or sale)
- Recommended highest and best use



In addition to development of the plan itself, Administration would develop procedures and standards for management of City lands with a focus on business-friendly practices and customer service. The advantages of an active approach are improved policy predictability and uniform application of policies as well as the opportunity for increased return from public land assets for the greatest benefit to the residents of Kenai. This active approach gives the City the ability to determine which properties are best suited for a public purpose, lease, sale, devotion, or which properties may be eligible for grants or economic incentives for

development. It also provides a mechanism to evaluate properties on an ongoing basis.

The City began work on the Land Management Plan by hiring a Temporary Land Technician who began researching City parcels and entering information into a new City Lands Database in 2018. To date, the baseline information has been entered into the system for approximately 85% of City-owned lands. When this task has been completed, City staff will review the information and finalize the first draft of the City's Land Management Plan for City Council consideration.

Once approved, the information in the database can be used to develop land use strategies to implement a forward-looking approach to community growth and development. The City will have the information necessary to make informed management decisions about City-owned lands. The public will be able to view parcel-specific data included in the Plan utilizing the City's interactive online mapping.



The Plan will require an ongoing review of current holdings and summary of changes, proposed changes, market research, upcoming events (land sales, lease expirations or leases requiring action) as well as further development of procedure manuals, forms, and databases to ensure efficient and consistent work.

## 2. KENAI MUNICIPAL CODE (KMC) REVISIONS

The City’s policies and procedures for land leasing and sale for General Fund and Airport Fund property outside the Airport Reserve are in the City’s land code (KMC 22 and 21.15). The working group reviewed the current code and legislative history, the City’s available land data, and the 2018 revisions for on-Airport property, which came about after consultation with real estate appraisers, bankers, surveyors, aviation consultants, and other land professionals. The group also reviewed existing leases to consider the needs of existing leaseholders and the business community to manage land for the greatest benefit of the residents of Kenai.

The following recommended revisions simplify and streamline the City’s land sale and lease program to encourage growth, development, and a thriving business, residential, recreational, and cultural community.

### Applicant-Friendly Rules



### Applicant-Friendly Rules

Current Process	Recommendations
<ul style="list-style-type: none"> <li>• Applicants must inquire with the City as to which lands are available for lease or sale</li> <li>• Information on lease and sale process available by request or by researching City Code</li> <li>• Applicants must request application form</li> <li>• \$100 application fee for initial lease but no fee for extension, renewal, amendment or assignment</li> <li>• \$4,800 up-front cost-recovery deposit for lease</li> <li>• Applicants must submit business plan, site plan, development plan and KPB compliance certificate with application</li> <li>• Publication notice required for sale only</li> <li>• Negotiated sale at not less than FMV by ordinance or after competitive process, outcry auction, or sealed bid</li> <li>• No appraisal prior to purchase agreement</li> <li>• If applicant for sale is not high bidder, deposit refunded after closing of sale</li> </ul>	<ul style="list-style-type: none"> <li>• \$100 application fee</li> <li>• Standard application form</li> <li>• All forms and FAQs available online and at City Hall</li> <li>• Interactive land listing available online and lands brochure available at City Hall</li> <li>• Public notice and posting required for lease and sale</li> <li>• Deposit based on actual cost of appraisal/subdivision (if applicable)</li> <li>• Appraisal costs credited or refunded to applicant once development is complete</li> <li>• Lease with option to purchase available</li> <li>• Over-the-counter sale available after competitive public process</li> <li>• Development incentives available</li> </ul>

“Applicant friendly” rules balance the interests of the City with those of the applicant, do not place excessive burdens on the applicant, provide a predictable process for application approval, attract new lessees to vacant land and retain existing leaseholders.

The City currently requires a lease applicant to submit a deposit up-front with a lease application to ensure performance, which is not required by other similarly situated municipalities and increases an applicant’s

upfront costs. Other procedures place unnecessary burdens on the applicant by requesting nonessential information at the application stage and do not provide a predictable process for approval.

The above recommendations provide an online resource for lease information and forms, remove the requirement for up front application deposits, remove the requirement for additional documents to be submitted with applications, provide for public notice and a predictable processing procedure, and maintain Kenai’s application fees as some of the lowest in the State. The recommendations also allow for lease applicants to indicate if they are interested in an option to purchase the property once development is completed. This provides a new avenue for competitive land sales that ensure development on the property.

## Uniform Conditions for Determining Initial Length Lease Term



### Initial Lease Term

Current Process	Recommendations
<ul style="list-style-type: none"> <li>Lease term depends upon the durability of the proposed use, the amount of investment in improvement proposed and made, and the nature of the improvement proposed with respect to durability and time required to amortize the proposed investment</li> <li>Value of improvements provided by applicant</li> <li>No limit on length of lease term</li> </ul>	<ul style="list-style-type: none"> <li>Length of term based on amount of investment applicant proposes to make in the construction of new permanent improvements</li> <li>Maximum length of lease term of 45 years</li> </ul>

The City currently sets the initial term of a lease based on the durability of the proposed use, the amount of investment in improvement proposed and made, and the nature of the improvement proposed with respect to durability and time required to amortize

the proposed investment. There is not a methodology in place similar to the term table contained in the code section for on-Airport properties that provides an applicant a guideline for how the City sets the lease term, which reduces predictability for applicants.

Amending the term table to set the five-year term investment/value at \$7,500, allowing for small investment increments, and allows a lease applicant to compare their planned investment to the term table to determine the term length they are likely to receive. This method also generally satisfies the requirements of financial institutions that provide funding for lessee improvements and provides greater predictability for business owners to locate and invest in Kenai’s economy. (See Appendix: Draft KMC 22 revisions for recommended term table)

## Predetermined Conditions for Lease Extension and Renewal

As more of the City’s leases reach the later part of the lease term, current conditions for lease extension and renewal discourage the lessee to invest in maintenance or further development as well as potentially restricting the lessee’s ability to sell their leasehold interest. For instance, a lessee with five years remaining in the lease and no right in the lease to renewal will have difficulty finding a buyer or new investor without being granted an extension or renewal of the lease.



## Extension & Renewal

Current Process	
<ul style="list-style-type: none"> <li>No Application Form</li> <li>No Application Fee</li> <li>Extension Not Defined</li> <li>No Development Required</li> <li>No Competition</li> <li>Not Eligible for Development Incentives</li> <li>Unpredictable Length of Extension</li> <li>No Term Limit</li> </ul>	<ul style="list-style-type: none"> <li>No Application Form</li> <li>No Application Fee</li> <li>Renewal Not Defined</li> <li>No Competition</li> <li>Requires Expensive Appraisal</li> <li>No Development Incentives</li> <li>Unpredictable Lease Term</li> </ul> <p><small>Title 22 and 21.15 do not contain definitions or conditions for lease extension or renewal</small></p>
Recommendations	
<ul style="list-style-type: none"> <li>\$100 Application Fee</li> <li>Standard Application Form</li> <li>Extension Defined as Extending Lease Term</li> <li>Allow for Competition</li> <li>Requires New Development</li> <li>Length of Extension Based on Term Table (Max. 45 Years)</li> <li>Eligible for Development Incentives</li> </ul>	<ul style="list-style-type: none"> <li>\$100 Application Fee</li> <li>Standard Application Form</li> <li>Renewal Defined as New Lease</li> <li>Allow Renewal by New Buyer</li> <li>Allow for Competition</li> <li>Term Based on New Development, Remaining Useful Life of Improvements, or Sale Price</li> <li>Eligible for Development Incentives</li> </ul>

The City currently does not have a methodology for how to determine the term for an extension or renewal for lands outside the Airport Reserve. Because renewal and extension are not defined, the terms are used interchangeably with extensions of older leases being granted rather than updated to a new standard lease form. A renewal requires an appraisal of the land at the expense of the lessee, which can be costly and does not address the improvements or the condition of the improvements on the

property. Additionally, the process does not provide any assurance to the lessee that a renewal will be granted to justify the cost of an appraisal.

The above recommendations as well as setting the lease term for renewal and extension using the same term table as is used in setting the term for initial leases gives a lessee a predictable method to renew or extend the lease. This provides for a lower cost and risk to the lessee and greater advantage to the City, as the renewal or extension term length is more accurately based on the condition of the principal improvement or investment and provides motivation for the lessee to maintain buildings in good condition.

### Protect Lessees from Excessive Rent Increases



## Rent Adjustments

Current Process	Recommendations
<ul style="list-style-type: none"> <li>Initial annual rent based on 8% of Fair Market Value appraisal paid for by the applicant</li> <li>Rent adjustment every five years based on a Fair Market Value appraisal paid for by the City</li> </ul>	<ul style="list-style-type: none"> <li>Initial annual rent based on 8% of Fair Market Value appraisal paid for by the applicant with cost of appraisal to be credited or refunded once development is completed</li> <li>Annual rent adjustment based on the consumer price index (CPI)</li> <li>A land market analysis will be performed once every ten years</li> </ul>

The City's existing policy for setting lease rates consists of an initial appraisal paid for by the lessee and renegotiation appraisals every five years paid for by the City and subsequent rates based on 8% of the fair market value as determined by the appraisals.

A change from the current five-year appraisal cycle to a 10-year “Market Analysis” (defined in the draft code revisions to KMC 22 contained in the Appendix) with an annual CPI adjustment provides less expense for the City in appraisal costs and greater predictability in rent for lessees. Annual rent would be computed by multiplying the CPI adjusted fair market value of the land by the lease rate percentage for each parcel (currently 8%).

For the City to realize the full benefit of an amendment to the policy for setting lease rates, existing lessees would need to convert to the new method. Allowing current lessees to convert their leases to the new form would allow lessees to take advantage of these protections from unexpected rent increases as well as any other conditions available in the new lease form, such as the predetermined conditions for lease extension and renewal and favorable provisions for the disposition of improvements.

### Provide Favorable Provisions for the Disposition of Improvements



## Disposition of Improvements

Current Process	Recommendations
<ul style="list-style-type: none"> <li>• City Code does not address disposition of improvements</li> <li>• Most City leases require lessee to remove improvements or they revert to the City at end of lease</li> </ul>	<p>At the end of a lease, departing lessee has the following options:</p> <ol style="list-style-type: none"> <li>1. Remove lessee-owned improvements and restore premises</li> <li>2. Sell lessee-owned improvements to succeeding lessee</li> <li>3. Purchase the property in which the lease contains an option to purchase once minimum development requirements have been met</li> </ol>

Under the new land leasing program on the Airport, at the end of a lease when the lessee does not continue in occupancy under a new lease or extension, the lessee has the option of removing improvements and restoring the premises or selling improvements to a succeeding lessee of the premises.

Most of the City’s current leases require the lessee to remove improvements or they will revert to the City. With the City taking title to the improvements, it limits the lessee’s incentive for taking good care of the buildings on the property as the end of the lease term approaches. The City runs the risk of “inheriting” a building in poor condition and with the expense and/or liability of repairing and maintaining the inherited building until a new lessee can be found. By contrast, the methods for disposition of improvements approved for on-Airport leases provide lessees with an incentive to maintain their facilities in good condition and do not leave the City with the burden of an increasing inventory of older buildings needing maintenance and repair.

The City’s current practice for disposition of improvements for Airport Reserve properties provides attractive options to lessees related to the improvements they constructed on the property. These options incentivize better maintenance and, along with other development incentives, encourage new investment, as well as increase predictability and uniformity for potential lessees.

## Offer Development Incentives

**Development Incentives**

How do development incentives work?

- A credit toward rent for a maximum of five years.
- The credit may only include the value of site preparation work on leased premises to include clearing and grubbing, unclassified excavation, classified fill and back fill, crushed aggregate base course, and utility extensions.
- An estimate of the value of the work must be provided to the City and accepted prior to work being performed.
- For the credit to be applied, the approved scope of work must be completed.

**81%**  
of businesses  
cite state and local incentives as a preferred  
feature in selecting a location\*

\*Businesses's Preferred Amenities Source: Area Development Magazine (annual survey)

The infographic features a background image of a person in a red shirt rowing a small boat on a calm lake, with a black dog sitting in the boat. The text is overlaid on a semi-transparent white and teal background.

One way the City has encouraged investment and leasing of undeveloped properties on the Airport is to offer development incentives. These incentives apply a credit toward rent for a maximum of five years. The credit only includes the value of site preparation work on the leased premises which provide economic benefit to the City and potentially increase the value of the property for future sale.

An estimate of the value of the work, including a scope of work, prepared by a professional engineer must be provided to the City and accepted prior to work being performed and the credit would not be applied until the approved scope of work was completed.

### Provide a Methodology for Sale of Leasehold Properties

The City's ordinances allow for sale of some leasehold properties at Fair Market Value if development had been completed as required by the lease or if substantial development has been completed as determined by the City Manager. However, beginning in 2009, the City has declined requests by lessees who wish to purchase except for those included in the temporary policy for ten specific "off Airport" leased lands with substantial constructed leasehold improvements.

The policy is in effect for a period of five years (expires in July of 2021) and approves a sale at 125% of the Fair Market Value of the land or, as an alternative to a sale at 125%, the lessee must either meet new investment requirements or demonstrate the existing lessee-constructed improvements exceed the net present value of leasing the land by quantifying the economic value of the investment to the City. The policy does not address the sale of other or future properties.

In order to allow for a competitive sale of leasehold property, the option to purchase would need to be part of the initial lease application approval process, which includes a public posting

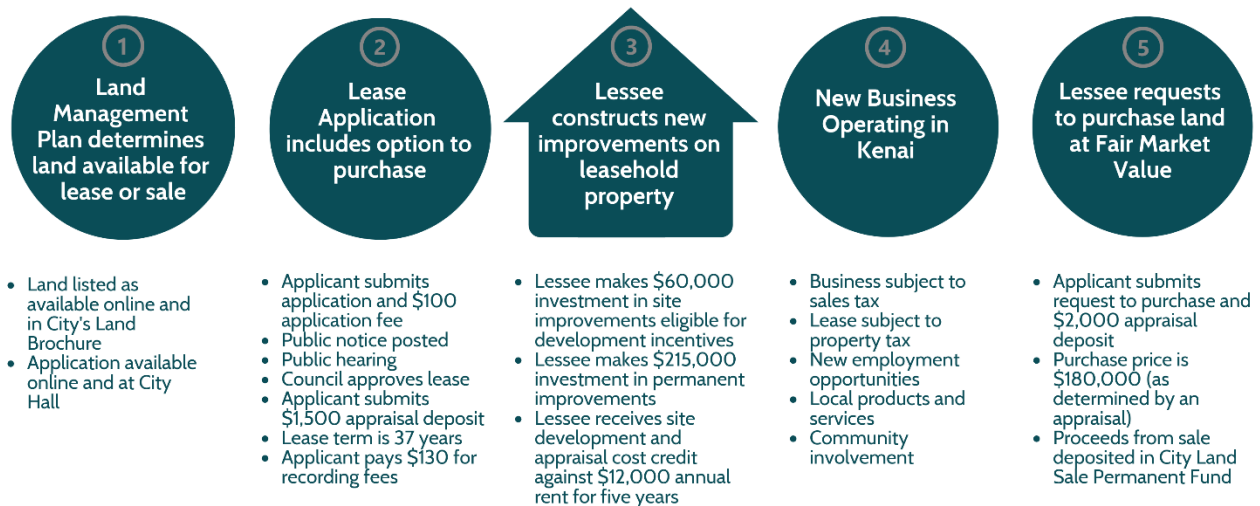
requirement and public hearing. The option to purchase could be exercised by the lessee at such time as the development requirements in the lease were met. This option would give the lessee the ability to enter into a lease with lower up-front costs as well operate a business at a location before committing to purchase the property. Providing a methodology for sale of leasehold properties will improve the City’s ability to attract specific businesses and industries that are necessary to maintain and grow the local economy.

For example, a new business could apply for a lease of City property, which has been pre-determined as available for lease or sale, with an option to purchase. The applicant would be responsible for the application fee and a deposit to cover the cost of an appraisal (the cost of the appraisal would be credited or refunded once minimum development in the form of permanent improvements on the property was completed). The lessee may also request a credit toward rent for a maximum of five years for the value of site preparation work on the leased premises, which potentially increases the value of the property for future sale. After two years – or five years, if the lessee prefers to exhaust the development credits, the lessee would be able to request to purchase the land at Fair Market Value based on a new appraisal.



## Lease with Option to Purchase:

\*Based on \$275,000 in lessee-constructed improvements on land appraised at \$150,000



This process would not be available for existing leasehold properties as it would not meet the City’s requirement for a competitive sale process.

## Provide a Methodology for Sale of Vacant Properties

The City's ordinances currently allow for sale of land outside the Airport Reserve not under lease at Fair Market Value by outcry auction, competitive sealed bids or negotiated sale to encourage a new commercial or industrial enterprise beneficial to the City. There is not a methodology in place to determine in advance which parcels of land are best suited for sale or guidance on what conditions justify negotiated transactions which may be in the City's best interests.

As part of an overall Land Management Plan, City staff would review the City's land inventory and consult with City departments to determine which properties are no longer needed for a public purpose and those which would provide a greater public benefit if offered for lease or sale. Property would become available for sale if it meets a set criteria, including: the property is not currently used by a City department or does not support a City function or foreseeable use by the City; the City is not obligated to use the property for the purpose in which it was conveyed or circumstances have changed such that the purpose is no longer needed; the property is a non-performing or under-performing asset and greater value can be generated by its sale; or, significant economic development opportunities can be generated by selling the property.

Based on an analysis of the individual parcel as provided in the Land Management Plan, it may be in the best interests of the City to sell parcels after significant development has been completed. Based on the City's policy not to allow for speculation on City-owned lands, a lease or sale would require development and a sale would be at not less than Fair Market Value with a required minimum investment in permanent improvements.



### Methodology for Sale

	Current Process	Recommendations	
<p>Lands not restricted from sale by deed which the Council has determined are not required for a public purpose may be listed for sale by the City Manager, except leased lands unless the lessee has made a written request for sale</p>	<p><b>NEGOTIATED, OUTCRY OR SEALED BID</b></p> <ul style="list-style-type: none"> <li>• Applicant executes Agreement for Purchase and deposit for cost of appraisal</li> <li>• City Manager obtains appraisal to determine minimum price</li> <li>• Public notice of sale and posting</li> <li>• If another bidder is successful, upon closing, the deposit will be refunded to the applicant</li> <li>• If no bids are submitted that meet the minimum price (or appraised value), the City Manager may negotiate a sale at less than fair market value for General Fund Land</li> </ul> <p><b>LEASED LAND</b></p> <ul style="list-style-type: none"> <li>• Lessee may request a sale at not less than fair market value after development has been completed to the satisfaction of the City Manager</li> </ul> <p>Conveyance to Encourage New Enterprise Property Exchanges Property Sale to Adjacent Owners (Small Parcel), Grant or Devotion (to Non-Profit)</p>	<p><b>COMPETITIVE</b></p> <ul style="list-style-type: none"> <li>• Standard application form</li> <li>• City obtains appraisal</li> <li>• Public notice of sale and posting</li> <li>• Over-the-counter sale available after competitive public process</li> <li>• Leased land may be sold to lessee if lease was subject to competition through the lease application process and included an option to purchase</li> </ul> <p><b>NON-COMPETITIVE</b></p> <ul style="list-style-type: none"> <li>• Conveyance to Encourage New Enterprise</li> <li>• Property Sale to Adjacent Owners (Small Parcel)</li> <li>• Grant or Devotion (to Non-Profit)</li> <li>• Conveyance to Resolve a Land Use Conflict</li> </ul> <p><b>PROPERTY EXCHANGE</b></p>	<p>Land Management Plan approved by Council determines if land is available for lease or sale</p>

## Update Special Use Permit Process



### Special Use Permit

<i>Requirements:</i>	Current Process		Recommendations	
	Lease	SUP	Lease	SUP
Application Form	✓		✓	✓
Application Fee	✓		✓	✓
Appraisal or Standard Fee	✓		✓	✓
Option to Purchase			✓	
Publication/ Posting			✓	
Maximum Term (Years)	No Maximum	5	45	1

The City does not currently have an application, application fee, or set fee schedule for Special Use Permits, which allow for temporary use of City property for up to five years without an appraisal or competitive process. Some permittees have utilized Special Use Permits instead of the lease process for cumulative terms that exceed many leases. A change to a one-year maximum term for Special Use Permits and a standard application, application fee, and fee schedule provides a uniform approach that does not allow a Special Use Permit to be used inappropriately in place of a lease.

### 3. UPDATE FORMS AND PROCEDURES

The following recommendations are for City fees, forms, and procedures that create a uniform approach and process for City lands management.

#### Update Lease Forms and Procedures

The above recommendations would require material changes in the standard lease forms currently used for City General Fund and Airport Fund lands located outside the Airport Reserve. These amendments might include definitions, rent adjustments, construction of improvements, and other changes consistent with any Code revisions. Any changes would require a Resolution approving the new standard lease form.

Additionally, updated application forms would be required and be made available both online and at City Hall.

#### Update City Procedures and Processes

Updates to the City's internal procedures and processes would also be necessary and would improve the processing of lease applications and sale procedures for a business-friendly approach. This would include creating FAQ's, examples of timelines, and flow charts available to potential lessees and parties interested in investing in development on City-owned lands.



## Update Administrative Fees for Land Management



### Land Management Fees

Fee Description	Current Fee Schedule		Proposed Fee Schedule	
	On-Airport	Off-Airport	On-Airport	Off-Airport
Lease Application	\$100	\$100	\$100	\$100
Lease Amendment	\$100	\$0	\$100	\$100
Lease Extension/ Renewal	\$100	\$0	\$100	\$100
Lease Assignment	\$100	\$0	\$100	\$100
Special Use Permit	\$0	\$0	\$50	\$50
Request to Purchase	N/A	\$0	N/A	\$100

NOTE: Fees are non-refundable

The City requires a \$100 non-refundable fee to be submitted with lease applications City-wide, however the only other administrative fees for lands are on the Airport, updated in 2018. Land-related administrative fees are a fairly common practice and prevent filing of frivolous applications as well as recover a portion of the administrative processing costs. Application and forms fees in other Alaska local governments range in amount and type with some areas charging between \$0 - \$500 for a lease application and additional fees when entering into lease or to cover the cost of recording.

#### 4. AFFIRMATIVE MARKETING PLAN

As a result of the 2018 recommendations, the City created its first Kenai Municipal Airport Available Lease Lands brochure available in print and online. An affirmative marketing plan for City-wide properties available for lease will ensure the continued success of the City's land leasing and sale programs.

The plan will promote the City of Kenai as business-friendly by providing a "one stop shop" of information on the City's website as well as in information brochures. A party interested in the possibility of leasing or purchasing City land to locate a business in Kenai can go to the website or review the brochure to find all essential leasing or sale information presented in simple terms. The information includes the advantages of living and doing business in Kenai, property available for lease or sale, the applicable application form, a sample lease, current rental rates (if available), the term investment table, the disposition of improvements, FAQs, a summary of the application processing steps and typical timetable.

The lease information package or brochure can be distributed as part of an active marketing strategy in which the City provides the information to targeted groups at trade shows, networking events, or one-on-one visits with business owners. Information on properties available for sale would be marketed to receive the widest possible exposure to prospective lessees and buyers. This would be accomplished through direct marketing techniques, such as requests for proposals (RFPs), advertising, posting the property on the multiple listing service (MLS) or any other appropriate method.

## TIMELINE

The purpose of presenting the recommendations of the working group is to provide a starting place for discussions regarding recommended changes to the City's land sale and leasing policies and procedures. The timeline for finalizing and implementing any approved changes will depend on City Council action. The next City Council meeting is scheduled for June 19, 2019, and the land sale and leasing policy and procedures recommendations will be included as a Discussion Item.

The proposed changes to the land leasing program for the Kenai Municipal Airport followed a timeline similar to the following timeline:

City Council Work Session:	June 11, 2019
City Council Discussion Item:	June 19, 2019
Airport Commission:	July 11, 2019
Planning and Zoning Commission:	July 24, 2019
Ordinance Introduction:	August 7, 2019
Airport Commission:	August 8, 2019
Harbor Commission:	August 12, 2019
Planning and Zoning Commission:	August 14, 2019
Public Hearing on Ordinance:	August 24, 2019
Resolution Amending Fee Schedule:	August 24, 2019
Resolution Adopting Lease Form:	August 24, 2019
Implementation and Forms Update:	Late August – Early September

Depending on approval of any recommendations or revisions, implementation of recommendations would take place in phases, with completion of code revisions and forms occurring over subsequent months. Continued work on the City's first Land Management Plan will occur over the next year.

Comments may be submitted to the City Manager or via email to the Assistant to the City Manager at [ccunningham@kenai.city](mailto:ccunningham@kenai.city)

## APPENDIX

Draft Land Management Plan  
Draft KMC 22 Revisions

**Title 22**

**[GENERAL FUND]CITY-OWNED LANDS**

**Chapter 22.05**

**DISPOSITION OF CITY [GENERAL FUND]LANDS**

**22.05.050 Definitions.**

When used in this chapter, the following terms shall have the meaning given below:

“Amendment” means a formal change to a lease of lands other than a lease extension or renewal.

“Annual rent” means an amount paid to the City annually according to the terms of the lease and Kenai Municipal Code.

“Assignment” means the transfer of all interest in a lease from one person or entity to another.

“City” means the City of Kenai, its elected officials, officers, employees or agents.

“Consumer Price Index (CPI)” means the annual CPI for all urban consumers (CPI-U) for Anchorage, Alaska.

“Existing lease” means a lease with at least one (1) year of term remaining.

“Expiring lease” means a lease with less than one (1) year of term remaining.

“Fair market value” means the most probable price which a property should bring in a competitive and open market as determined by a qualified independent appraiser, or the value as determined by the latest appraisal adjusted by the change in Consumer Price Index from the date of the latest appraisal.

“Lease extension” means extending the term of an existing lease.

“Lease rate percent” means a percentage that when applied to the fair market value of land establishes a rate of rent commensurate with rental rates prevalent in the local area as determined by a qualified real estate appraiser.

“Lease renewal” means a new lease of property currently under an existing or expiring lease to an existing lessee or a purchaser.

“Market analysis” means an analysis of data collected from other land leases to determine whether a market adjustment in either fair market value or lease rate percentage reflects the market.

“Permanent improvement” means a fixed addition or change to land that is not temporary or portable, including a building, building addition, retaining wall, storage tank, earthwork, fill material, gravel, and pavement, and remediation of contamination for which the applicant is not responsible and excluding items of ordinary maintenance, such as glass replacement, painting, roof repairs, door repairs, plumbing repairs, floor covering replacement, or pavement patching.

“Professional estimate of the remaining useful life of the principal improvement” means an estimate of the number of remaining years that the principal improvement will be able to function in accordance with its intended purpose prepared by a qualified real estate appraiser, engineer, or architect licensed in Alaska.

“Qualified independent appraiser” means a general real estate appraiser certified by the State of Alaska under AS [08.87](#).

“Site development materials” means materials used for preparing a lease site for building construction or to provide a firm surface on which to operate a vehicle or aircraft, including geotextile, fill, gravel, paving, utilities and pavement reinforcement materials.

“Site preparation work” means work on the leased premises to include clearing and grubbing, unclassified excavation, classified fill and back fill, a crushed aggregate base course and utility extensions.

#### **22.05.010 [POWER]Authority and Intent [TO DISPOSE OF REAL PROPERTY].**

(a) The provisions of this chapter apply to [GENERAL FUND] City-owned real property other than lands within the Airport Reserve as described in KMC 21.10 and the leasing of tidelands for shore fisheries.

(b) The City may sell, convey, exchange, transfer, donate, dedicate, direct, [OR ]assign to use, or otherwise dispose of City-owned real property, including property acquired, held for, or previously devoted to a public use, only in accordance with this chapter, and, with respect to properties acquired through foreclosure for taxes, in compliance with those terms and provisions of AS [29](#) which apply to home-rule municipalities [ARE REQUIRED TO COMPLY WITH]. Disposal or sale of lands shall be made only when, in the judgment of the City Council, such lands are not or are no longer required for a public purpose.

(c) It is the intent of this chapter to provide land policies and practices that encourage responsible growth and development to support a thriving business, residential, recreational and cultural community.

(d) It is not the intent of this chapter to allow for speculation on City-owned lands. All leases, sales, and other disposals of City-owned land must meet the intent of this chapter.

(e) The provisions of this chapter shall not alter or amend the terms or rights granted under leases existing prior to the effective date of the ordinances codified in this chapter.

**22.05.015 Lands Available for Lease, Sale or [D]Disposal.**

(a) The City may lease, sell or dispose of real property not restricted from lease or sale which the City Council has determined is not required for a public purpose [BY WARRANTY OR QUIT-CLAIM DEED, EASEMENT, LEASE, GRANT, PERMIT, LICENSE, DEED OF TRUST, MORTGAGE CONTRACT OF SALE OF REAL PROPERTY, PLAT DEDICATION, TAX DEED, OR] by any [OTHER ]lawful method or mode of conveyance or grant. Any instrument requiring execution by the City shall be signed by the City Manager and attested by the City Clerk. The form of any instrument shall be approved by the City Attorney.

**22.05.020 Qualifications of Lease [A]Applicants or [B]Bidders.**

An applicant or bidder for a lease is qualified if the applicant or bidder:

- (a) Is an individual at least eighteen (18) years of age [OR OVER]; or
- (b) Is a [GROUP, ASSOCIATION, OR CORPORATION WHICH IS] legal entity which is authorized to conduct business under the laws of Alaska; or
- (c) Is acting as an agent for another meeting the requirements of subsection (a) or (b) of this section and has qualified by filing with the City [MANAGER] a proper power of attorney or a letter of authorization creating such agency. [THE AGENT SHALL REPRESENT ONLY ONE (1) PRINCIPAL TO THE EXCLUSION OF HIMSELF OR HERSELF. THE TERM “AGENT” INCLUDES REAL ESTATE BROKERS AND AGENTS.]

**22.05.025 Initial Lease Application[S].**

(a) All applications for lease of lands [SHALL] must be [FILED WITH] submitted to the City [MANAGER] on an application form[S] provided by the City[AVAILABLE AT CITY HALL]. Applications [SHALL] will be dated on receipt and must include payment of [FILING] the nonrefundable application fee [AND DEPOSIT. NO APPLICATION WILL BE ACCEPTED BY THE CITY MANAGER UNLESS IT APPEARS TO THE CITY MANAGER TO BE COMPLETE. FILING FEES ARE NOT REFUNDABLE] as set forth in the City’s schedule of fees approved by the City Council.

(b) [WITH EVERY]The application[, THE APPLICANT SHALL SUBMIT A DEVELOPMENT PLAN, SHOWING AND STATING] form must include the following information:

- (1) The purpose of the proposed lease;
- (2) The use, [VALUE AND]nature, type, and estimated cost of improvements to be constructed;
- (3) [THE TYPE OF CONSTRUCTION;

(4) The dates construction is estimated to commence and be completed. [(ORDINARILY A MAXIMUM OF TWO (2) YEARS)] Construction must be completed within two (2) years except in special circumstances, that require a longer period of time and which must be approved by the City Council; and

(15)4) [WHETHER INTENDED USE COMPLIES WITH THE ZONING ORDINANCE AND COMPREHENSIVE PLAN OF THE CITY. APPLICATIONS SHALL BECOME A PART OF THE LEASE]A comprehensive description of the proposed business or activity intended;

(5) Whether the applicant requests a lease with an option to purchase; and

(6) How the proposed lease meets the intent of this chapter.

(c) Applications which propose a subdivision shall require the applicant to be responsible for all costs associated with the subdivision, including but not limited to any new appraisal, engineering services, surveying and consulting costs, unless in the sole discretion of the City Council, it is determined that the subdivision serves other City purposes.

(1) If the Council determines that other City purposes are served by the subdivision, the City Council may choose in its sole discretion to share in the subdivision costs with the applicant in an amount the City Council determines is reasonable given the benefit to the City.

(2) If the Council does not make a determination that other City purposes are served by the subdivision, the applicant must submit a deposit to cover the estimated costs associated with the subdivision.

(3) If the City enters into a lease with the applicant, any unused balance of the deposit made to cover costs associated with subdivision will apply to the rent payable under the lease.

(4) If the City's costs exceed the amount of any deposit made to cover costs associated with subdivision, the applicant must pay the shortage to the City as a condition of the lease.

(5) If the application is rejected or if the applicant withdraws the application or fails to sign a lease offered to the applicant, the City will return any unused deposit balance to the applicant.

(d) Applications for lands which have not been appraised within one (1) year of the requested starting date of the lease require the applicant to be responsible for all costs associated with appraisal. The cost of the appraisal shall be credited or refunded to the lessee once development is completed as required by the lease, extension or renewal.

(e) Applications which result in a lease agreement with the City require the lessee to be responsible for all recording costs and any other fees associated with execution of the lease including a preliminary commitment for title insurance and fifty percent (50%) of the required costs associated with a sale of leased land in which the lease contains an option to purchase once the minimum development requirements have been met.

(f) Anytime during the processing of a lease application, the City may request, and the applicant must supply, any clarification or additional information that the City reasonably determines is necessary for the City to make a final decision on the application.

**[22.05.030 FILING FEE AND DEPOSIT.**

(A) WHEN SUBMITTING AN APPLICATION FOR LEASE OF LAND, THE APPLICANT SHALL PAY THE CITY THE FOLLOWING AS SET FORTH IN THE CITY'S SCHEDULE OF FEES ADOPTED BY THE CITY COUNCIL:

(1) PAY A NON-REFUNDABLE FILING FEE IN THE AMOUNT; AND

(2) A DEPOSIT TO SHOW GOOD FAITH AND SECURE THE CITY IN PAYMENT OF ANY COSTS, INCLUDING:

(A) AN APPRAISAL COST RECOVERY DEPOSIT; AND

(B) AN ENGINEERING, SURVEYING AND CONSULTING COST RECOVERY DEPOSIT.

(B) IF THE CITY DECIDES TO REJECT THE APPLICANT'S APPLICATION AND NOT ENTER INTO A LEASE WITH THE APPLICANT THROUGH NO FAULT OF THE APPLICANT OR FAILURE OF THE APPLICANT TO COMPLY WITH ANY REQUIREMENT OF THIS CHAPTER, ANY DEPOSIT MADE UNDER SUBSECTION (A)(2) OF THIS SECTION WILL BE RETURNED TO THE APPLICANT.

(C) IF THE CITY ENTERS INTO A LEASE WITH THE APPLICANT ANY DEPOSIT MADE BY THE APPLICANT UNDER SUBSECTION (A)(2) OF THIS SECTION WILL BE APPLIED TO THE CITY'S ENGINEERING, APPRAISAL, AND CONSULTING COSTS RELATED TO THE PROCESSING OF THE APPLICANT'S APPLICATION AND ENTERING INTO THE LEASE. THE CITY WILL APPLY ANY UNUSED BALANCE OF A DEPOSIT TO THE RENT PAYABLE UNDER THE LEASE. IF THE CITY'S COSTS EXCEED THE AMOUNT OF ANY DEPOSIT, THE APPLICANT SHALL PAY THE SHORTAGE TO THE CITY AS A CONDITION OF THE LEASE.

(D) IF THE APPLICANT FAILS TO COMPLY WITH ANY REQUIREMENT OF THIS CHAPTER, CAUSES INORDINATE DELAY, AS DETERMINED BY THE CITY MANAGER, OR REFUSES TO SIGN A LEASE OFFERED TO THE APPLICANT, THE CITY MANAGER WILL REJECT THE APPLICANT'S APPLICATION AND APPLY ANY DEPOSIT MADE BY THE APPLICANT UNDER SUBSECTION (A) OF THIS SECTION TO THE CITY'S APPRAISAL, ENGINEERING, AND CONSULTING COSTS INCURRED IN CONNECTION WITH THE APPLICANT'S APPLICATION. IF THE CITY'S COSTS FOR APPRAISAL, ENGINEERING AND CONSULTING COSTS EXCEED THE DEPOSITS, THE APPLICANT WILL BE RESPONSIBLE FOR THESE COSTS. THE CITY WILL RETURN ANY UNUSED DEPOSIT BALANCE TO THE APPLICANT.]

**22.05.035 [RIGHTS PRIOR TO LEASING.]No Right of Occupancy – Lease Application Expiration.**

(a) Submitting [THE FILING OF] an application for a lease [SHALL] does not give the applicant [NO] a right to lease or [TO THE] use [OF THE] City-owned land [FOR WHICH THEY HAVE APPLIED].

(b) The application shall expire upon execution of a lease or rejection of a lease application by the City Council or within twelve (12) months after the date the application has been [MADE] submitted [IF A LEASE HAS NOT BEEN ENTERED INTO BETWEEN THE CITY AND THE APPLICANT BY THAT TIME UNLESS THE CITY COUNCIL FOR GOOD CAUSE GRANTS AN EXTENSION. NO EXTENSION MAY BE GRANTED FOR A PERIOD LONGER THAN SIX (6) MONTHS. LEASE RATES ARE SUBJECT TO CHANGE ON THE BASIS OF AN APPRAISAL DONE EVERY TWELVE (12) MONTHS ON THE PROPERTY APPLIED FOR].

**22.05.040 [PROCESSING PROCEDURE] Lease Application Review.**

(a) Applications shall be [FORWARDED] reviewed by City staff for application completeness and conformance with City ordinances.

(b) Based on the initial review, if the City Manager determines the application is complete, the application shall be referred to the Planning and Zoning Commission and any other applicable commissions [UPON RECEIPT] for review and comment, together with the City Manager's recommendation for approval or rejection. [THE PLANNING AND ZONING COMMISSION SHALL NORMALLY CONSIDER APPLICATIONS FOR SPECIFIC LANDS ON A FIRST-COME, FIRST-SERVED BASIS IF THE COMMISSION FINDS THAT THE APPLICATION IS COMPLETE AND CONFORMS TO THE COMPREHENSIVE PLAN AND THE KENAI ZONING CODE. WHERE THERE IS DIFFICULTY IN OBTAINING A PERFECTED APPLICATION, DETAILS AS TO DEVELOPMENT PLANS, ETC., OR WHERE THE APPLICANT FAILS TO COMPLY WITH DIRECTIONS OR REQUESTS OF THE PLANNING AND ZONING COMMISSION, ANY SUCH PRIORITY WILL BE LOST. IF AN APPLICATION FOR THE PURCHASE OF CITY-OWNED LANDS, PREVIOUSLY AUTHORIZED FOR SALE BY THE COUNCIL, IS RECEIVED BY THE CITY PRIOR TO THE KENAI PLANNING AND ZONING COMMISSION MAKING AN AFFIRMATIVE OR NEGATIVE RECOMMENDATION TO THE COUNCIL REGARDING THE LEASE APPLICATION FOR THE SAME PROPERTY, THE CITY MAY ELECT TO SELL THE PROPERTY IN ACCORDANCE WITH THE PROVISIONS OF THE CODE.

(B) THE CITY COUNCIL SHALL NORMALLY CONSIDER A LEASE PROPOSAL ONLY AFTER APPROVAL OF THE PLANNING AND ZONING COMMISSION. HOWEVER, APPEALS OF PLANNING AND ZONING COMMISSION DISAPPROVAL MAY BE MADE TO THE CITY COUNCIL. COMPLETED LEASE APPLICATIONS MUST BE PRESENTED TO THE CITY COUNCIL WITHIN THIRTY (30) DAYS AFTER APPROVAL BY THE PLANNING AND ZONING COMMISSION.]

(c) Notice of complete applications for new leases, renewals or extensions shall be published in a newspaper of general circulation within the City. The notice must contain the name of the applicant, a brief description of the land, whether the applicant requests a lease with an option to



purchase, and the date upon which any competing applications must be submitted (thirty (30) days from the date of publication).

(d) The applicant shall post the property subject to the application with notice of complete applications for new leases, renewals or extension at least ten (10) days before the date of the required public hearing. Such notices shall be placed so as to be visible from each improved street adjacent to the property, to the extent possible.

[(C) WHERE THERE ARE TWO (2) OR MORE APPLICATIONS FOR THE SAME LANDS FOR DIFFERENT USES, THEN IF THE PLANNING AND ZONING COMMISSION MAKES A FINDING THAT A SUBSEQUENT APPLICATION WOULD RESULT IN USE OF THE LANDS FOR A HIGHER AND BETTER PURPOSE WITH A GREATER BENEFIT TO THE CITY OF KENAI AND THE CITIZENS THEREOF, THEN THE LEASE MAY BE ISSUED TO SUCH APPLICANT NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (A) IN THIS SECTION WHICH PROVIDE FOR LEASING ON A FIRST-COME, FIRST-SERVED BASIS. ANY APPLICANT MAY APPEAL TO THE CITY COUNCIL FROM A FINDING OR A REFUSAL TO FIND BY THE PLANNING AND ZONING COMMISSION BY FILING AN APPEAL WITH THE CITY CLERK WITHIN SEVEN (7) DAYS AFTER THE FINDING IS MADE OR REFUSED BY THE PLANNING AND ZONING COMMISSION.

(d) The recommendations of the City Manager, Planning and Zoning Commission, and any other applicable commissions shall be provided to the City Council. The City Council shall determine whether the lease is consistent with the intent of this chapter. The decision whether or not to lease land or authorize a lease extension, renewal, amendment or assignment rests in the sole discretion of the City Council.

(e) If the applicant is in default of any charges, fees, rents, taxes, or other sums due and payable to the City or the applicant is in default of a requirement of any lease or contract with the City a lease shall not be entered into until the deficiencies are remedied .

**22.05.045 [REVIEW]Application for Lease Amendment, Assignment, Extension or Renewal.**

[NO LEASED LAND MAY BE CHANGED IN USE, NOR MAY ANY RENEWAL LEASE BE ISSUED UNTIL THE PROPOSED USE OR RENEWAL HAS BEEN REVIEWED BY THE PLANNING COMMISSION AND APPROVED BY THE COUNCIL.]

(a) A request from an existing lessee for a lease amendment, assignment, extension or renewal of the lease must be submitted to the City on an application form provided by the City. Applications must be complete and dated on receipt and include payment of the nonrefundable application fee and applicable deposit as set forth in the City's schedule of fees adopted by the City Council.

(b) An application for an amendment must include the following information:

(1) The purpose of the proposed amendment;

- (2) The proposed change in use or activity, if any;
- (3) A comprehensive description of the proposed business or activity, if applicable; and
- (4) How the proposed amendment meets the intent of this chapter.
- (c) An application for a lease assignment must include the following:
  - (1) The name of the individual or legal entity to which the lessee requests to assign the lease.
- (d) An application for a lease extension must include the following information:
  - (1) The use, nature, type and estimated cost of additional improvements to be constructed;
  - (2) The dates new construction is estimated to commence and be completed; and
  - (3) How the proposed lease extension meets the intent of this chapter.
- (e) An application for a lease renewal must include the following information:
  - (1) For a lease renewal of an existing lease:
    - (i) The use, nature, type and estimated cost of additional investment in the construction of new permanent improvements;
    - (ii) The dates new construction is estimated to commence and be completed;
    - (iii) If the renewal is pursuant to a transaction between the current lessee and a new buyer and prospective lessee, the estimated purchase price of real property improvements on the premises as certified by the current lessee and proposed purchaser in a bill of sale; and
    - (iv) How the proposed lease renewal meets the intent of this chapter.
  - (2) For a lease renewal of an expiring lease:
    - (i) A fair market value appraisal of the existing principal improvement on the property, paid for by the applicant, and the estimated cost of any additional investment in the construction of permanent improvements on the premises, if applicable;
    - (ii) If the renewal is pursuant to a transaction between the current lessee and a new buyer and prospective lessee, the estimated purchase price of existing real property improvements, as certified by the current lessee and the proposed purchaser in a bill of sale and the estimated cost of any additional investment in the construction of permanent improvements on the premises, if applicable;
    - (iii) If the renewal is based on a professional estimate of the remaining useful life of the real property improvements on the premises, the estimated value and how it was determined;

(iv) The use, nature, type and estimated cost of any additional improvements to be constructed, if applicable;

(v) The dates any new construction is estimated to commence and be completed; and

(vi) How the proposed lease meets the intent of this chapter.

(f) Applications for amendment, assignment, extension or renewal shall be processed in accordance with the lease application review provisions of this chapter, except that applications for assignment shall not be referred to the Planning and Zoning Commission. The City has no obligation to amend, assign, renew or extend a lease and may decline to do so upon making specific findings as to why a lease amendment, assignment, renewal, or extension is not in the best interest of the City.

#### **[22.05.050 APPRAISAL.**

NO LAND SHALL BE SOLD, LEASED, OR A RENEWAL OF LEASE ISSUED, UNLESS THE SAME HAS BEEN APPRAISED WITHIN A TWELVE (12) MONTH PERIOD PRIOR TO THE SALE OR DATE FIXED FOR BEGINNING OF THE TERM OF THE LEASE OR RENEWAL LEASE. NO LAND SHALL BE LEASED FOR LESS THAN THE APPROVED APPRAISED ANNUAL RENTAL. APPRAISALS SHALL REFLECT THE NUMBER AND VALUE OF CITY SERVICES RENDERED THE LAND IN QUESTION.]

#### **22.05.050 Competing Lease Applications.**

If another application for a new lease, extension or a renewal is received for the same property within thirty (30) days from the notice of application publication date by a different applicant, City staff shall process the application and forward the application, the City Manager's recommendation and applicable commission recommendations to the City Council for approval of the application anticipated to best serve the interests of the City. The City Council may approve one (1) of the applications, reject all the applications or direct the City Manager to award a lease of the property by sealed bid. An applicant for a renewal or extension may withdraw an application for a renewal or extension at any time prior to a decision by the City Council whether or not to approve such a renewal or extension.

#### **22.05.055 [TERMS]Length of [L]Lease [T]Term.**

[ALL LEASES SHALL BE APPROVED BY THE CITY COUNCIL BEFORE THE SAME SHALL BECOME EFFECTIVE. THE TERM OF ANY GIVEN LEASE SHALL DEPEND UPON THE DURABILITY OF THE PROPOSED USE, THE AMOUNT OF INVESTMENT IN IMPROVEMENT PROPOSED AND MADE, AND THE NATURE OF THE IMPROVEMENT PROPOSED WITH RESPECT TO DURABILITY AND TIME REQUIRED TO AMORTIZE THE PROPOSED INVESTMENT].

(a) The length of term for an initial lease shall be based on the amount of investment the applicant proposes to make in the construction of new permanent improvements on the premises

as provided in the application. The City Council may offer a shorter lease term, if the City Council makes specific findings that a shorter lease term is in the best interest of the City.

(b) The maximum term of a lease shall be determined according to the following term table and cannot exceed forty-five (45) years:

Term Table

<u>Applicant's Investment/Value</u>	<u>Maximum Term Of</u> <u>Years</u>
<u>\$7,500</u>	<u>5</u>
<u>15,000</u>	<u>6</u>
<u>22,500</u>	<u>7</u>
<u>30,000</u>	<u>8</u>
<u>37,500</u>	<u>9</u>
<u>45,000</u>	<u>10</u>
<u>52,500</u>	<u>11</u>
<u>60,000</u>	<u>12</u>
<u>67,500</u>	<u>13</u>
<u>75,000</u>	<u>14</u>
<u>82,500</u>	<u>15</u>
<u>90,000</u>	<u>16</u>
<u>97,500</u>	<u>17</u>
<u>105,000</u>	<u>18</u>
<u>112,500</u>	<u>19</u>
<u>120,000</u>	<u>20</u>
<u>127,500</u>	<u>21</u>
<u>135,000</u>	<u>22</u>
<u>142,500</u>	<u>23</u>
<u>150,000</u>	<u>24</u>
<u>157,500</u>	<u>25</u>
<u>165,000</u>	<u>26</u>
<u>172,500</u>	<u>27</u>
<u>180,000</u>	<u>28</u>
<u>187,500</u>	<u>29</u>
<u>195,000</u>	<u>30</u>
<u>202,500</u>	<u>31</u>
<u>210,000</u>	<u>32</u>
<u>217,500</u>	<u>33</u>
<u>225,000</u>	<u>34</u>
<u>232,500</u>	<u>35</u>
<u>240,000</u>	<u>36</u>
<u>247,500</u>	<u>37</u>
<u>255,000</u>	<u>38</u>
<u>262,500</u>	<u>39</u>
<u>270,000</u>	<u>40</u>
<u>277,500</u>	<u>41</u>

<u>285,000</u>	<u>42</u>
<u>292,500</u>	<u>43</u>
<u>300,000</u>	<u>44</u>
<u>307,500</u>	<u>45</u>

(c) Lease extension. The length of term for a lease extension shall be determined based on the remaining term of the initial lease and the estimated cost of new investment the applicant proposes to make in the construction of new permanent improvements on the premises according to the term table and provided no extension shall extend a lease term past forty-five (45) years.

(d) Lease renewal for an existing lease. A renewal for an existing lease requires the construction of new permanent improvements, and the length of term for a lease renewal for an existing lease shall determined as follows:

(1) Based on the remaining term of the initial lease according to the term table and the estimated cost of new investment the applicant proposes to make in the construction of new permanent improvements on the premises according to the term table; or

(2) Pursuant to a transaction between the current lessee and a new buyer and prospective lessee and based on the purchase price of existing real property improvements on the premises, as certified by the current lessee and the proposed purchaser in the bill of sale, to be executed at closing of the transaction and the estimated cost of new investment in the construction of new permanent improvements on the premises according to the term table.

(3) The term for renewal of an existing lease cannot exceed forty-five (45) years.

(e) Lease renewal for an expiring lease. The length of term for a lease renewal of an expiring lease shall be determined as follows:

(1) The purchase price of existing real property improvements on the premises, as certified by the current lessee and the proposed purchaser in the bill of sale, to be executed at closing of the transaction and the estimated cost of any new investment in the construction of new permanent improvements on the premises according to the term table; or

(2) A professional estimate of the remaining useful life of the real property improvements on the premises, paid for by the applicant and the estimated cost of any new investment in the construction of new permanent improvements on the premises according to the term table; or

(3) A fair market value appraisal of the existing real property improvements on the premises, paid for by the applicant and the estimated cost of any new investment in the construction of new permanent improvements on the premises according to the term table.

(4) The term for renewal of an existing lease cannot exceed forty-five (45) years.

(f) If the initial lease, term extension, or lease renewal granted to the applicant requires construction of new permanent improvements, the lease or term extension shall be subject to the following conditions:

(1) The lessee to complete the proposed permanent improvements within two (2) years except in special circumstances, that require a longer period of time and which must be approved by the City Council.

(2) The lessee to provide a performance bond, deposit, personal guarantee, or other security if the City Council determines security is necessary or prudent to ensure the applicant's completion of the permanent improvements required in the lease, renewal, or extension. The City Council shall determine the form and amount of the security according to the best interest of the City, after a recommendation by the City Manager considering the nature and scope of the proposed improvements and the financial responsibility of the applicant.

(3) At no expense to the City, the lessee must obtain and keep in force during the term of the lease, insurance of the type and limits required by the City for the activities on the premises.

(4) Within thirty (30) days after completion of the permanent improvements, the lessee shall submit to the City written documentation that the improvements have been completed as required. The City Manager shall make a report to the City Council of completion as soon as reasonably practical.

(5) If the applicant shows good cause and the City Council determines the action is in the best interest of the City, the City Council may grant an extension of the time allowed to complete permanent improvements by resolution that is sufficient to allow for the completion of the permanent improvements or for submission of documentation that the permanent improvements have been completed.

(6) If, within the time required, the applicant fails to complete the required permanent improvements, the City shall:

(i) If the application is for a new lease or lease renewal, execute the forfeiture of the performance bond, deposit, personal guarantee, or other security posted by the applicant under subsection (f)(2) of this section to the extent necessary to reimburse the City for all costs and damages, including administrative and legal costs, arising from the applicant's failure to complete the required improvements, and/or initiate cancellation of the lease or reduce the term of the lease to a period consistent with the portion of the improvements substantially completed in a timely manner according to the best interests of the City.

(ii) If the application is for a lease extension, the City shall terminate the amendment extending the term of the lease or reduce the term of the extension at the City's sole discretion.

**22.05.060 [ANNUAL MINIMUM RENTAL]Principles and Policy of Lease Rates.**

(a) Annual [MINIMUM] rent[ALS] shall be computed [FROM THE APPROVED APPRAISED]by multiplying the fair market value of the land by a lease rate percentage of eight percent (8%) for each parcel [UTILIZING THE METHOD AS DESCRIBED IN KMC 22.05.070 OF THIS CHAPTER.]; and

(b) The City will determine the fair market value of the land requested to be leased based on an appraisal conducted for the City by an independent real estate appraiser certified under Alaska State statutes and ordered by the City for the purpose of determining annual rent. The appraisal shall be paid for by the applicant, and the cost of the appraisal shall be credited or refunded to the lessee once development is completed as required by the lease. The fair market value of the land will be adjusted annually based on the rate of inflation determined by the consumer price index (CPI) to determine annual rent[.]; and

[ (B) UPON EXECUTION OF THE LEASE, THE LANDS BECOME TAXABLE TO THE EXTENT OF ITS LEASEHOLD INTEREST AND LESSEE SHALL PAY ALL REAL PROPERTY TAXES LEVIED UPON SUCH LEASEHOLD INTEREST IN THESE LANDS, AND SHALL PAY ANY SPECIAL ASSESSMENTS AND TAXES AS IF HE OR SHE WERE THE OWNER OF THE LAND.

(C) RENT SHALL BE PAID ANNUALLY IN ADVANCE. PAYMENTS SHALL BE PRORATED TO CONFORM TO THE CITY OF KENAI'S FISCAL YEAR BEGINNING JULY 1ST AND ENDING JUNE 30TH. IF THE EQUIVALENT MONTHLY PAYMENT EXCEEDS TWO HUNDRED DOLLARS (\$200.00), THEN THE LESSEE SHALL HAVE THE OPTION OF MAKING PAYMENTS ON A MONTHLY BASIS.

(D) LESSEE SHALL BE RESPONSIBLE FOR ALL SALES TAXES APPLICABLE TO ITS OPERATIONS.]

(c) The City will conduct a land market analysis of City-owned land under lease once every ten (10) years to determine whether a market adjustment in either fair market value of land or lease rate percentage is justified; and

(d) If the City determines from the market analysis that a market adjustment to the lease rate percentage is in the best interests of the City, the new lease percentage must be approved by an ordinance and utilized to compute annual rents for the next fiscal year; and

(e) If the market analysis or extraordinary circumstances determine a fair market value adjustment is in the best interests of the City, the City shall retain the services of an independent, real estate appraiser certified under Alaska State statutes to determine the fair market value of all leased land and shall use these values to compute annual rents for the next fiscal year; and

(f) The City shall adjust the annual rent of a lease by giving the lessee written notice at least thirty (30) days prior to application of a new annual rent determination; and

(g) If a lessee disagrees with the proposed change in the fair market value of land or lease rate percent (excluding CPI determinations, which cannot be appealed) and cannot informally resolve the issue with the City, the lessee must:

(1) Provide notice of appeal in writing within ninety (90) days of notification supported by the written appraisal of a qualified real estate appraiser, selected and paid for by lessee (the "second appraiser"); and

(2) The City and the lessee will meet to attempt to resolve the differences between the first appraiser and the second appraiser concerning the fair market value of the land or lease rate percent; and

(3) If the City and lessee cannot agree upon the fair market value or lease rate percent then they shall direct the first appraiser and the second appraiser to mutually select a third qualified real estate appraiser, paid for jointly by the parties (the “third appraiser”); and

(4) Within thirty (30) days after the third appraiser has been appointed, the third appraiser shall decide which of the two (2) respective appraisals from the first appraiser and the second appraiser most closely reflects the fair market value of the land or lease rate percent; and

(5) The fair market value of the land or lease rate percent shall irrefutably be presumed to be the value(s) contained in such appraisal selected by the third appraiser, and the rent shall be redetermined based on such value(s); and

(6) Rent shall continue to be paid at the then-applicable rate until any such new rental rate is established, and lessee and the City shall promptly pay or refund, as the case may be, any variance in the rent, without interest accruing to the extent to be paid/refunded.

**22.05.065 [B]Lease Bidding [P]Procedure.**

[AS AN EXCEPTION TO GENERAL POLICY LISTED ABOVE]With the approval of the City Council, the [CITY COUNCIL]City Manager may designate a specific lot or lots to be [MADE AVAILABLE ONLY FOR]leased through competitive sealed bid. The City Manager shall award the lease to the qualified bidder utilizing a procurement procedure which may consider qualitative factors in addition to the amount of any [AS DESIGNATED, SEALED BIDS SHALL BE RECEIVED OFFERING A]one (1) time premium payment to be paid by the successful bidder; provided, however, that the high bidder and the bidder’s lease proposal [IN ADDITION TO THE ESTABLISHED LEASE RATE. HIGHEST BID, HOWEVER,]shall be subject to all provisions of lease application review and approval [ESTABLISHED FOR ALL OTHER LEASE APPLICATIONS]under this chapter.

**[22.05.070 PRINCIPLES AND POLICY OF LEASE RATES.**

(A) A FAIR RETURN TO THE GENERAL FUND IS THE POLICY OF THE CITY, UNLESS DEVIATION FROM THAT POLICY IS IN THE BEST INTEREST OF THE CITY AS DETERMINED BY THE CITY COUNCIL. TO ENSURE A FAIR RETURN, ALL LEASES FOR A PERIOD IN EXCESS OF FIVE (5) YEARS SHALL INCLUDE A REDETERMINATION CLAUSE AS OF THE FIFTH ANNIVERSARY OF THE LEASE AND EVERY FIVE (5) YEARS THEREAFTER, AND ALL LANDS FOR LEASE SHALL BE APPRAISED PRIOR TO LEASE AND AGAIN PRIOR TO REDETERMINATION. LEASE RATES:

(1) SHALL BE BASED ON FAIR MARKET VALUE OF THE LAND, INCLUDING AN APPROPRIATE CONSIDERATION OF FACILITIES AND SERVICES AVAILABLE (PUBLIC WATER, PUBLIC SEWER, STORM SEWERS, AND OTHER PUBLIC UTILITIES)



AS DETERMINED BY A QUALIFIED INDEPENDENT APPRAISER, CONSIDERING THE BEST USE OF THE SPECIFIED LAND; AND

(2) SHALL BE EIGHT PERCENT (8%) OF FAIR MARKET VALUE.

(B) FOR LEASES IN EXISTENCE PRIOR TO THE EFFECTIVE DATE OF THE ORDINANCE CODIFIED IN THIS CHAPTER, THE LEASE RATE REDETERMINATION SHALL BE AS PROVIDED IN THE LEASE.

(C) THE CITY MANAGER SHALL CHANGE THE RENT IN A LEASE BY GIVING THE LESSEE WRITTEN NOTICE AT LEAST THIRTY (30) DAYS IN ADVANCE OF THE EFFECTIVE DATE OF THE CHANGE.

(D) THE "FAIR MARKET VALUE" OF THE PREMISES SHALL BE EQUAL TO THE THEN FAIR MARKET RATE FOR SIMILAR COMMERCIAL PROPERTY IN THE CITY OF KENAI, ALASKA (THE "RELEVANT AREA"). CITY SHALL GIVE NOTICE TO LESSEE OF CITY'S ESTIMATION OF THE FAIR MARKET VALUE NOT LATER THAN THIRTY (30) DAYS PRIOR TO THE EXPIRATION OF THE THEN-APPLICABLE FIVE (5) YEAR PERIOD, AS EVIDENCED AND SUPPORTED BY THE WRITTEN OPINION OF AN INDEPENDENT REAL ESTATE APPRAISER CERTIFIED UNDER ALASKA STATUTE 8.87, SELECTED AND PAID FOR BY THE CITY, FAMILIAR WITH THE RELEVANT AREA (THE "FIRST APPRAISER"). IF LESSEE DISAGREES WITH SUCH ESTIMATE, IT SHALL ADVISE THE CITY IN WRITING THEREOF WITHIN THIRTY (30) DAYS OF LESSEE'S RECEIPT OF SUCH ESTIMATE, AS EVIDENCED AND SUPPORTED BY THE WRITTEN OPINION OF A REAL ESTATE APPRAISER CERTIFIED UNDER ALASKA STATUTE 8.87 (SELECTED AND PAID FOR BY LESSEE) FAMILIAR WITH THE RELEVANT AREA (THE "SECOND APPRAISER"). THE PARTIES SHALL PROMPTLY MEET TO ATTEMPT TO RESOLVE THEIR DIFFERENCES BETWEEN THE FIRST APPRAISER AND THE SECOND APPRAISER CONCERNING THE FAIR MARKET VALUE OF THE PREMISES. IF CITY AND LESSEE CANNOT AGREE UPON SUCH VALUE THEN, WITH ALL DELIBERATE SPEED, THEY SHALL DIRECT THE FIRST APPRAISER AND THE SECOND APPRAISER TO EXPEDITIOUSLY AND MUTUALLY SELECT A THIRD REAL ESTATE APPRAISER CERTIFIED UNDER ALASKA STATUTE 8.87 (SELECTED AND PAID FOR JOINTLY BY THE PARTIES) FAMILIAR WITH THE RELEVANT AREA (THE "THIRD APPRAISER"). WITHIN THIRTY (30) DAYS AFTER THE THIRD APPRAISER HAS BEEN APPOINTED, THE THIRD APPRAISER SHALL DECIDE WHICH OF THE TWO (2) RESPECTIVE APPRAISALS FROM THE FIRST APPRAISER AND THE SECOND APPRAISER MOST CLOSELY REFLECTS THE FAIR MARKET VALUE OF THE PREMISES. THE FAIR MARKET VALUE OF THE PREMISES SHALL IRREBUTTABLY BE PRESUMED TO BE THE VALUE CONTAINED IN SUCH APPRAISAL SELECTED BY THE THIRD APPRAISER, AND THE RENTAL SHALL BE REDETERMINED BASED ON SUCH VALUE. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, RENTAL SHALL CONTINUE TO BE PAID AT THE THEN-APPLICABLE RATE UNTIL ANY SUCH NEW RENTAL RATE IS ESTABLISHED, AND LESSEE AND CITY SHALL PROMPTLY PAY OR REFUND, AS THE CASE MAY BE, ANY VARIANCE IN THE RENTAL, WITHOUT INTEREST THEREON ACCRUING TO THE EXTENT TO PAID/REFUNDED IN A TIMELY FASHION.

**22.05.075 REIMBURSEMENT FOR CITY-CONSTRUCTED IMPROVEMENTS.**

(A) THE CITY MANAGER MAY INCLUDE IN A LEASE A REQUIREMENT FOR THE LESSEE TO REIMBURSE THE CITY FOR THE CITY’S COST OF:

(1) LAND CLEARING, GRAVEL FILL, UTILITY EXTENSIONS AND OTHER IMPROVEMENTS OR AMENITIES ON OR IN DIRECT CONNECTION WITH THE PREMISES, CONSTRUCTED BY THE CITY PRIOR TO THE EFFECTIVE DATE OF THE LEASE; OR

(2) LAND CLEARING, GRAVEL FILL, UTILITY EXTENSIONS AND OTHER IMPROVEMENTS OR AMENITIES ON OR IN DIRECT CONNECTION WITH THE PREMISES, WHICH THE CITY AGREES TO CONSTRUCT AS A CONDITION OF THE LEASE, SUBJECT TO CITY COUNCIL APPROVAL.

(B) THE LESSEE SHALL REIMBURSE THE CITY FOR THE CITY’S COST OF CONSTRUCTING THE IMPROVEMENTS IN TEN (10) EQUAL ANNUAL PAYMENTS, PLUS INTEREST AT EIGHT PERCENT (8%) PER YEAR ON THE UNPAID BALANCE. IF THE LEASE IS FOR LESS THAN TEN (10) YEARS, THE REPAYMENT SCHEDULE MAY NOT BE LONGER THAN THE TERM OF THE LEASE. THE LESSEE MAY PAY THE ENTIRE REMAINING BALANCE TO THE CITY AT ANY TIME DURING THE TERM OF THE LEASE.]

**22.05.070 Development Incentives.**

(a) The City Council may include a lease rent incentive to encourage commercial investment as follows:

(1) A credit may be applied toward rent for a maximum of five (5) years. The credit may only include the value of site preparation work on the leased premises to include clearing and grubbing, unclassified excavation, classified fill and back fill, crushed aggregate base course, and utility extensions.

(2) An estimate of the value of the work, including a scope of work, prepared by a qualified engineer licensed to work in Alaska must be provided to the City and accepted prior to work being performed.

(3) Any changes to the estimate of the value of the work or scope of work must be provided to the City and accepted prior to work being performed to be eligible for the credit.

(4) For the credit to be applied, the approved scope of work must be completed.

(5) A certification from a qualified engineer that the accepted scope of work has been completed must be provided to the City and accepted at the completion of the site preparation work.

(6) Credit will be limited to original qualified engineer’s estimate unless another amount is accepted by the City in advance of work being completed.

(7) Once the work is completed as proposed and the qualified engineer's certification of completion has been received, a credit shall be applied to the lease payments, prorated as necessary for a maximum of five (5) years.

(8) Rent shall be paid at the then-applicable rate until any such credit toward rent has been approved by the City Manager or designee, and the City shall apply a credit to lease payments prorated as necessary or promptly pay or refund, as the case may be, any variance between the credit applied and the rent paid, without interest accruing to the extent to be paid/refunded.

### **22.05.075 Ownership of Improvements.**

(a) Permanent improvements on the premises, excluding site development materials, constructed, placed, or purchased by the lessee remain the lessee's property as long as a lease for the premises remains in effect with the lessee, including renewals, any period of extension approved by the City pursuant to the provisions of this chapter, or any period of holdover.

(b) Unless otherwise provided in a land lease, at the expiration, cancellation, or termination of a lease that is extended or followed by a successive lease, the departing lessee may do one (1) or more of the following:

(1) Remove lessee-owned permanent improvements from the premises, remediate any contamination for which the lessee is responsible, and restore the premises to a clean and neat physical condition acceptable to the City within ninety (90) days after the expiration, cancellation, or termination date of the lease; or

(2) Sell lessee-owned permanent improvements to the succeeding lessee, remove all personal property, remediate any contamination for which the lessee is responsible, and leave the premises in a clean and neat physical condition acceptable to the City within sixty (60) days after notice from the City that the City has approved an application for a lease of the premises by another person or such longer period specified in the notice, but in no event more than one hundred eighty (180) days after the expiration, termination, or cancellation date of the lease; or

(3) Purchase the property in which the lease contains an option to purchase once the minimum development requirements have been met for the fair market value of the land excluding permanent improvements made by the lessee.

(c) If the lessee does not timely remove or sell the lessee-owned permanent improvements on a premises in accordance with the requirements of this section, any remaining permanent improvements and any remaining personal property of the departing lessee will be considered permanently abandoned. The City may sell, lease, demolish, dispose of, remove, or retain the abandoned property for use as the City determines is in the best interest of the City. The lessee shall, within thirty (30) days after being billed by the City, reimburse the City for any costs reasonably incurred by the City, including legal and administrative costs, to demolish, remove, dispose, clear title to, or sell the abandoned property and to remediate any contamination and restore the premises.

(d) Site development materials that a lessee places on a premises become part of the City-owned real property and property of the City upon placement. The lessee:

(1) Must maintain the site development work and site development materials throughout the term of the lease or successive lease, including any extensions and periods of holdover; and

(2) May not remove the site development materials unless the City approves in writing.

**22.05.080 Lease [E]Execution.**

The lease applicant shall execute and return the appropriate lease agreement with the City of Kenai within thirty (30) days of mailing the agreement to the applicant. The lease agreement shall be prepared in accordance with the requirements of this title. Failure to execute and return the lease agreement within the specified period shall result in the forfeiture of all leasing rights.

**22.05.085 Lease [U]Utilization.**

Leased lands shall be utilized for purposes within the scope of the application, the terms of the lease and in conformity with the ordinances of the City, and in substantial conformity with the Comprehensive Plan. Utilization or development for other than the allowed uses shall constitute a [VIOLATION]material breach of the lease and subject the lease to cancellation at any time. Failure to substantially complete the development plan for the land shall constitute grounds for cancellation.

**22.05.086 Form of Lease.**

(a) When leasing land under this chapter, the City Manager shall use a standard lease form that:

(1) Provides a reasonable basis for the lessee's use of the premises,

(2) Complies with the intent of this chapter, and

(3) Provides for the best interest of the City.

(4) Approved as to form by the City Attorney; and

(5) Adopted by resolution of the City Council.

(b) The City Manager may enter into a land lease that deviates from the standard form adopted under subsection (a) of this section, if:

(1) The City Manager believes the action is in the best interest of the City;

(2) The lease is approved as to form by the City Attorney; and

(3) The lease is approved by resolution of the City Council.

**22.10.087 Lease Payments.**

(a) Upon execution of the lease, the land becomes taxable to the extent of the lessee’s leasehold interest and lessee shall pay all real property taxes levied upon such leasehold interest in these lands, and shall pay any special assessments and taxes.

(b) Rent shall be paid annually in advance unless the lessee submits a written request to the City to pay on a quarterly or monthly basis. The payments shall be prorated to conform to the City of Kenai’s fiscal year beginning July 1st and ending June 30th.

(c) Lessee shall be responsible for all sales taxes due on payments under the lease.

**[22.05.090 CONVEYANCE TO ENCOURAGE NEW ENTERPRISES.**

NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, WHERE IT IS FOUND THAT ENCOURAGEMENT OF A NEW COMMERCIAL OR INDUSTRIAL ENTERPRISE WOULD BE BENEFICIAL TO THE CITY OF KENAI, THE CITY COUNCIL BY ORDINANCE SO FINDING MAY DIRECT CONVEYANCE OF ONE OR MORE PARCELS OF CITY LAND BY THE CITY MANAGER TO SUCH ENTERPRISE UPON SUCH TERMS AS TO PRICE, CONDITIONS OF CONVEYANCE, AND WITH SUCH CONTINGENCIES AS MAY BE SET FORTH IN THE ORDINANCE.]

**22.05.095 [S]Methods of Sale or Disposal.**

(a) Lands[,] to which the City of Kenai holds title which are not restricted from sale by the deed of conveyance to the City[,] or which have been released from such restrictions[, WHICH] and that the City Council has determined are not required for a public purpose, may be listed for sale by the City Manager[, EXCEPT THAT LANDS WHICH HAVE BEEN LEASED SHALL NOT BE SOLD UNLESS THE LESSEE HAS MADE A WRITTEN REQUEST TO THE CITY TO PLACE THE LAND FOR SALE]. The decision whether or not to sell the land rests in the sole discretion of the City Council.

(b) [SALES OF LAND PURSUANT TO SUBSECTION (A) OF THIS SECTION SHALL BE MADE AT NOT LESS THAN FAIR MARKET VALUE. THE PURCHASER SHALL EXECUTE THE “AGREEMENT FOR SALE OF LAND” WITHIN ONE (1) YEAR OF THE DATE OF APPRAISAL. ]The City Council may by ordinance authorize the City Manager [HAS THE OPTION ]to dispose of such properties in accordance with [THE SALE PROCEDURES SET OUT IN THIS TITLE]the intent of this chapter as follows:

(1) [BY NEGOTIATED SALE; OR]Non-competitive process:

(i) Conveyance to encourage new enterprises where it is found that encouragement of a new commercial or industrial enterprise would be beneficial to the City of Kenai, one or more parcels of City land may be sold upon such terms as to price, conditions of conveyance, and with such contingencies as may be set forth in the ordinance.

(ii) Property sale to adjacent owners for the conveyance of a parcel of City property at fair market value to the owner of adjacent land whenever, in the judgment of the City Council, the

parcel of land is of such small size, shape, or location that it could not be put to practical use by any other party.

(iii) Grant or devotion of real property to the United States, the State of Alaska, a local political subdivision of the State of Alaska, or any agency of any of these governments or a non-profit corporation, for a consideration agreed upon between the City and grantee without a public sale if the grant, devotion or lease is advantageous to the City.

(iv) Conveyance of land to resolve a land use conflict.

(2) [BY]Competitive process:

(i) Public outcry auction to the highest responsible bidder[; OR].

[ (3) BY COMPETITIVE S](ii) Sealed bid[s] to the highest responsible bidder.

(iii) Over-the-Counter sale after a public outcry auction or sealed bid process on a first-come basis, provided minimum development requirements are met within two (2) years of sale and the land is sold for fair market value. An appraisal to determine fair market value must be completed within a one (1) year period prior to the date of sale.

(iv) Leased land in which the lease was subject to competition through the lease application review process and which contains an option to purchase once the minimum development requirements have been met for the fair market value of the land excluding permanent improvements made by the lessee. An appraisal to determine fair market value must be completed within a one (1) year period prior to the sale.

(3) Property exchange: Property exchanges for the conveyance and exchange of a parcel of City-owned property for property owned by another individual or legal entity subject to such conditions as Council may impose on the exchange, whenever the City Council makes findings it is advantageous to the City to make the property exchange.

[IN THE EVENT THAT THE SALE IS NOT CLOSED WITHIN SIX (6) MONTHS OF THE DATE OF APPRAISAL, THE BUYER WILL BE CHARGED, UPON CLOSING, INTEREST COMPUTED IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE KENAI MUNICIPAL CODE, BASED UPON THE TOTAL SALES PRICE FOR THE NUMBER OF DAYS PAST THE EXPIRATION OF THE SIX (6) MONTH PERIOD.]

(c) Any sale of land owned by the City of Kenai and held by it for the use or benefit of the Kenai Municipal Airport must include in any instrument conveying title to the property restrictions accepted by the City under the terms of the 1963 Quitclaim Deed from the United States of America recorded at Book 27, Page 303 at the Kenai Recording District, Kenai Alaska or any other land owned by the City and acquired with Airport funds which may include similar restrictions. Additionally, any sale or disposal of the aforementioned lands for less than fair market value shall require a deposit in the amount of the difference between fair market value and the sale price to the Airport Land Sale Permanent Fund for the benefit of the Kenai Municipal Airport.

**22.05.100 Sale [P]Procedure.**

(a) All requests to purchase City land must be submitted to the City on approved forms provided by the City. Applications will be dated on receipt and payment of the nonrefundable application fee and must include applicable deposit as set forth in the City's schedule of fees adopted by the City Council.

(b) Applications which propose a subdivision shall require the applicant to be responsible for all costs associated with the subdivision, including but not limited to engineering services, surveying and consulting costs, unless in the sole discretion of the City Council it is determined the subdivision serves other City purposes.

(1) If the Council determines that other City purposes are served by the subdivision, the City Council may choose in its sole discretion to share in the subdivision costs with the applicant in an amount the City Council determines is reasonable given the benefit to the City.

(2) If the Council does not make a determination that other City purposes are served by the subdivision, the applicant must submit a deposit to cover the estimated costs associated with the subdivision.

(3) If the City enters into a sale with the applicant, any unused balance of the deposit made to cover costs associated with subdivision will be credited toward the purchaser at closing.

(4) If the City's costs exceed the amount of any deposit made to cover costs associated with subdivision, the applicant must pay the shortage to the City as a condition of the sale.

(5) If the application is rejected or if the applicant withdraws the application or fails to enter into a sale offered to the applicant, the City will return any unused deposit balance to the applicant.

(c) The City [MANAGER WILL OBTAIN SUCH AN APPRAISAL]will retain the services of an independent, real estate appraiser certified under Alaska State statutes to determine the fair market value for a determination of the minimum price on the land to be paid for from the deposit made by the applicant unless such an appraisal has been obtained within one (1) year prior to the date of sale. The cost of the appraisal will be credited toward the purchaser at closing.

[B) WHERE ANY PARTY, HEREINAFTER CALLED "APPLICANT," REQUESTS THAT A TRACT OR TRACTS OF LAND BE SOLD FOR WHICH AN APPRAISAL WILL BE REQUIRED, WHICH WILL REQUIRE SUBDIVIDING, PLATTING, OR SURVEYING AND STAKING, OR WHICH WILL REQUIRE ADVERTISING OR INCURRING ANY OTHER EXPENDITURES BY THE CITY PRIOR TO SALE.

(1) NO ACTIONS IN PREPARATION FOR SALE WILL BE TAKEN BY THE CITY UNTIL AN AGREEMENT TO PURCHASE SHALL BE PROPERLY EXECUTED AND FILED WITH THE CITY MANAGER FOR THE PURCHASE OF SUCH LAND WITH PAYMENT OF SUFFICIENT GOOD FAITH DEPOSIT, WHICH SHALL CONSIST OF CASH OR ITS EQUIVALENT DEPOSITED WITH THE FINANCE OFFICER OF THE CITY OF KENAI, AS MAY BE DETERMINED BY THE CITY MANAGER, TO COVER ALL EXPENSES OF

THE CITY AND SUCH AGREEMENT TO PURCHASE SHALL FURTHER CONTAIN THE AGREEMENT BY APPLICANT TO PAY ANY ADDITIONAL COSTS IF SAID GOOD FAITH DEPOSIT IS INSUFFICIENT TO PAY ALL COSTS INCURRED BY THE CITY.]

(2)(d) If at any time during the process of preparing for sale, the applicant [GIVES NOTICE TO THE CITY MANAGER OF WITHDRAWAL OF ]withdraws the [REQUEST]application for sale, the City [MANAGER ]shall stop all procedures, [SHALL ]pay expenses incurred prior to [TERMINATION OF SALE PROCEDURES ]withdrawal of the application for sale, and [SHALL ]reimburse applicant for any [GOOD FAITH ]deposit advanced in excess of [ALL]expenses incurred. [(]However, if another party desires the sale to proceed, files an application [FOR SALE ]for sale, executes and files an agreement to purchase, and [ADVANCES ]deposits sufficient funds[ THEREFOR], then the prior applicant will be reimbursed for expenses [CHARGES ]which can be attributed to the subsequent applicant.()

(3)(e) If all actions necessary for preparation for sale have been accomplished, and if neither the applicant nor any other party purchases said land when first offered for sale after such request, then all expenses incurred in preparation for the sale will be paid from the [GOOD FAITH ]applicant's deposit, and the balance, if any, shall be returned to the applicant. If the [SUMS ]amount of the deposit is [ADVANCED AS GOOD FAITH DEPOSIT ARE]insufficient to pay all of the costs, the applicant will be billed for the balance due[ AND NORMAL COLLECTION PROCEDURES FOLLOWED].

[(4)(f) If the land [APPLIED FOR ]is sold [ON ]in a competitive public sale set in response to such request to anyone other than the applicant, [THEN ON CLOSING OF THE SALE, ]the [GOOD FAITH] applicant's deposit will be refunded in total to the applicant. The City's expenses will be first deducted from the deposit of the successful bidder.

[(5)(g) If the land [IN QUESTION ]is sold to the applicant, [THE]any [GOOD FAITH ]deposit advanced, after deducting the City's expenses, will be [APPLIED ON THE PAYMENT DUE] credited to the purchaser at closing.

[(6) IF THE LAND IN QUESTION IS TO BE SOLD BY SEALED BID AND THE APPLICANT HAS SUBMITTED A VALID BID, BUT THE APPLICANT IS NOT THE HIGH BIDDER, HE OR SHE MAY PURCHASE THE LAND BY TENDERING THE CITY A BID EQUAL TO THE HIGH BID WITHIN FIVE (5) DAYS OF THE BID OPENING. IF THE LAND SALE IS INITIATED IN ACCORDANCE WITH KMC 22.05.040[(A)], THE APPLICANT SHALL BE DEFINED AS THAT PARTY SUBMITTING THE INITIAL LEASE APPLICATION.]

[(C]h) If the [TRACT OF ]land [PROPOSED TO BE SOLD ]is leased land in which the lease contains an option to purchase once the minimum development requirements have been met, the lessee may request the sale of the land at not less than the fair market value. [THE CURRENT LESSEE OBTAINS THIS RIGHT TO REQUEST A SALE ONLY AFTER, TO THE SATISFACTION OF THE CITY MANAGER, DEVELOPMENT HAS BEEN COMPLETED AS DETAILED IN THE DEVELOPMENT SCHEDULE WHICH HAS BEEN INCORPORATED INTO THE LEASE AGREEMENT. IF THERE IS NO DEVELOPMENT SCHEDULE, THE LESSEE MAY PURCHASE THE PROPERTY IF THERE HAVE BEEN



SUBSTANTIAL IMPROVEMENTS AS DETERMINED BY THE CITY MANAGER. THE DECISION WHETHER OR NOT TO SELL THE LAND TO THE LESSEE RESTS WITH THE SOLD DISCRETION OF THE CITY.]

([D]i) [IF THE TRACT OF LAND PROPOSED TO BE SOLD IS NOT LEASED LAND, OR IS LEASED LAND WITHOUT SUBSTANTIAL IMPROVEMENTS, THEN THE TRACT OF LAND MAY ONLY BE SOLD BY OUTCRY AUCTION OR BY COMPETITIVE SEALED BIDS.] If the [TRACT] land is to be [PUT UP FOR SUCH ]sold through a competitive [AUCTION OR SEALED BID SALE ]process, notice of sale and the manner in which the land is to be sold [SHALL BE]must be posted to the extent possible to be visible from each improved street adjacent to the property and published in a newspaper of general circulation within the City [ONCE EACH WEEK FOR TWO (2) SUCCESSIVE WEEKS NOT LESS THAN THIRTY (30) DAYS PRIOR TO THE DATE OF SALE; SUCH NOTICE SHALL ALSO BE POSTED IN AT LEAST THREE (3) PUBLIC PLACES WITHIN THE CITY AT LEAST THIRTY (30) DAYS PRIOR TO THE DATE OF SALE, AND SUCH OTHER NOTICE MAY BE GIVEN BY SUCH OTHER MEANS AS MAY BE CONSIDERED ADVISABLE BY THE CITY MANAGER. SUCH]. The published notice must contain:

- (1) The legal description of the land;
- (2) A brief physical description of the land;
- (3) The area and general location of the land;
- (4) The minimum acceptable offer for the land (which shall be [ITS APPRAISED ]the fair market value);
- (5) The terms under which the land will be sold;
- (6) Any limitations on the sale of the land;
- (7) The time and place set for the auction or bid opening;
- (8) The amount of deposit to be submitted with each bid in order to cover the City's expenses such as survey, appraisal, and reviews;
- (9) Any other matters concerning the sale of which the City Manager believes the public should be informed.

[(E) IF NO OFFERS ARE SUBMITTED MEETING THE MINIMUM ACCEPTABLE OFFER (OR APPRAISED VALUATION), THE CITY MANAGER MAY NEGOTIATE FOR SALE OF THE TRACT OR TRACTS OF LAND WITH A MODIFICATION OF PROPOSED TERMS OR FOR LESS THAN THE APPRAISED VALUATION PROVIDED THAT NO SUCH NEGOTIATED SALE FOR LESS THAN APPRAISED VALUE SHALL BE BINDING UPON THE CITY UNLESS THE TERMS AND PRICE THEREIN ARE APPROVED BY RESOLUTION OF THE CITY COUNCIL.

(F) WHERE A REAL ESTATE AGENT FURNISHES A BUYER FOR CITY LAND, THE CLOSING AGENT SHALL BE AUTHORIZED TO PAY THE AGENT A REAL ESTATE COMMISSION OF FIVE PERCENT (5%) OF THE PURCHASE PRICE FOR THE LAND OR FIVE PERCENT (5%) OF THE APPRAISED FAIR MARKET VALUE OF THE LAND, WHICHEVER IS LOWER, UNDER THE FOLLOWING TERMS AND CONDITIONS:

(1) THE CITY MANAGER SHALL PROVIDE A NON-EXCLUSIVE LISTING OF LANDS AVAILABLE FOR SALE.

(2) NO COMMISSION SHALL BE PAID TO AN AGENT WHERE THE AGENT IS A PARTY, OR IN PRIVITY WITH A PARTY, TO THE SALE.

(G) CLOSING OF SALE OF CITY LANDS SHALL BE HANDLED BY A TITLE OR ESCROW COMPANY.

(H) CONVEYANCE OF CITY LANDS SHALL BE BY QUIT CLAIM OR WARRANTY DEED FURNISHED BY THE CITY, AND BUYERS ARE ADVISED THAT ALL SUCH CONVEYANCES ARE SUBJECT TO ALL LIENS, ENCUMBRANCES, RESTRICTIONS, AND COVENANTS OF RECORD AND ARE SPECIFICALLY, WITHOUT BEING LIMITED THERETO, SUBJECT TO ANY UNRELEASED RESTRICTIONS CONTAINED IN THE DEED OR DEEDS BY WHICH THE CITY RECEIVED TITLE TO THE LAND.]

[(I)] If a buyer desires to obtain a preliminary commitment for title insurance or title insurance to the land, [THEN] it shall be the responsibility of the buyer to obtain and pay for such commitment or insurance[ AND TO PAY FOR THE SAME].

[(J) IF THE TRACT OR TRACTS OF LAND ARE SOLD UNDER TERMS BY WHICH THE CITY IS TO ACCEPT A NOTE AS A PORTION OF THE PURCHASE PRICE, THE NOTE AND ACCOMPANYING DEED OF TRUST MUST BE PREPARED BY AN ATTORNEY, BUT MUST BE APPROVED BY THE CITY ATTORNEY PRIOR TO CLOSING.

(K) THE NOTE SHALL BE PLACED FOR COLLECTION WITH A BANK SELECTED BY THE CITY MANAGER, WHICH MAY BE CHANGED FROM TIME TO TIME, AND WHICH SHALL BE THE BANK IN WHICH CITY FUNDS ARE DEPOSITED. THE SET-UP FEE TO INITIATE COLLECTION MAY BE NEGOTIATED AS SPECIFIED IN KMC 22.05.100(L), AND THE BUYER SHALL PAY THE ANNUAL COLLECTION FEES FOR SUCH BANK COLLECTION.]

[(L)] The City Manager is authorized to negotiate a division of the costs of sale [LISTED IN KMC 22.05.100(G), (H), (I), (J) AND (K)] to a maximum of fifty percent (50%) of the required costs being borne by the City, provided however that no costs of sale will be paid by the City where a sale is negotiated at a price below [APPRAISED ]the fair market value of the land.

**22.05.101 No Right of Occupancy – Land Purchase Application Expiration.**

(a) Submitting an application to purchase land does not give the applicant a right to purchase or use City-owned land.

(b) The application shall expire upon closing of the sale or rejection of a land purchase application by the City Council or within twelve (12) months after the date the application has been submitted.

**22.05.105 Terms for [F]Financing [S]Sale of City-Owned [L]Lands.**

(a) In order to expedite and facilitate the sale of City lands, the City Manager is authorized to accept terms for sales and may accept a note secured by a deed of trust for a portion of the purchase price thereof, subject to the following restrictions:

(1) [IF THE SALE IS TO A LESSEE WHO HAS PLACED A LIEN FOR FINANCING UPON THE LAND OR IMPROVEMENTS, THEN THE CITY MANAGER IS NOT AUTHORIZED TO SELL THE LAND EXCEPT FOR TOTAL CASH PAYMENT, PROVIDED, HOWEVER, THAT THE CITY MANAGER MAY ACCEPT A NOTE SECURED BY A DEED OF TRUST SUBORDINATE TO THE EXISTING SECURITY INTEREST IF THE AMOUNT OF THE NOTE THEREBY SECURED IS WITHIN THE DIFFERENCE BETWEEN THE FAIR MARKET VALUE OF THE LAND WITH IMPROVEMENTS, AND THE SUM OF ALL PRIOR SECURITY INTERESTS. THE SALE DOCUMENTS SHALL BE SUBJECT TO THE SAME RESTRICTIONS CONTAINED IN THE LEASE AS THE LEASE PROVIDES AT THE TIME OF SALE.

(2) Except for property sold by the City subsequent to foreclosure for delinquent taxes or assessments, prior to making a determination to accept a note and deed of trust from a prospective purchaser, the City [MANAGER] shall [SECURE] order a preliminary commitment for title insurance and a review of the grantee index covering the party desiring to purchase the land [FROM THE TITLE COMPANY IN THE LOCAL RECORDING DISTRICT]at the cost of the party requesting to purchase the land, and no credit will be advanced on such sale if there are any delinquent liens or unpaid judgments found in the title company report until any such judgments or liens are paid and releases therefor have been filed.

(3) In the event of a credit sale, terms shall be approved by the City Council in the Ordinance approving the sale, as follows:

(i) [T]The down payment required, which shall [BE DETERMINED BY THE CITY MANAGER, BUT SHALL ]not be less than fifteen percent (15%) of the sales price[.]; and

(ii) The length of the note; and

(iii) A fixed or variable interest rate.

[(4) THE CITY MANAGER IS NOT AUTHORIZED TO ACCEPT TERMS FOR THE SALE OF TAX-FORECLOSED LANDS UNLESS THE DOWN PAYMENT TO BE RECEIVED THEREUNDER, OR OTHER SUMS APPROPRIATED FOR THE PURPOSE, ARE SUFFICIENT TO MAKE IMMEDIATE PAYMENT TO THE KENAI PENINSULA BOROUGH AND THE FORMER RECORD OWNER OF THE SUMS WHICH ARE, OR MAY BECOME, DUE TO THEM PURSUANT TO THE PROVISIONS OF AS 29.]

[(B) IF THE CITY MANAGER DETERMINES THAT IT IS IN THE CITY'S INTEREST TO SELL CITY LANDS, THE SALE SHALL BE EITHER A CASH TRANSACTION OR BY A NOTE SECURED BY A DEED OF TRUST, SUBJECT TO SUBSECTION (A) OF THIS SECTION, AND BY NO OTHER MEANS. THE NOTE AND DEED OF TRUST SHALL CARRY TERMS AS FOLLOWS:

(1) THE TERM OF SUCH NOTE MAY BE SET BY THE CITY MANAGER, BUT IT SHALL PROVIDE FOR MONTHLY PAYMENTS AND NOT EXCEED TWENTY (20) YEARS UNLESS A LONGER PERIOD FOR A SPECIFIC SALE OF LAND IS APPROVED BY RESOLUTION OF THE CITY COUNCIL.

(2) SUCH NOTE SHALL BEAR INTEREST AT A RATE TO BE DETERMINED BY THE CITY COUNCIL BY RESOLUTION.]

**22.05.110 Determination as to ~~[N]Need for [P]Public [U]Use.~~**

(a) Whether land shall be acquired, retained, devoted, or dedicated to a public use shall be determined by ordinance which shall contain the public use for which the property is to be dedicated, the legal description of the property, and the address or a general description of the property sufficient to provide the public with notice of its location. This requirement does not apply to rights-of-way or easements dedicated through the City and Borough platting process.

(b) Whether land previously dedicated to a public use should be dedicated to a different public use or should no longer be needed for public use shall be determined by the City Council by ordinance, except in cases of vacation of rights-of-way or easements which may be determined by resolution, either of which shall contain the new public use for which the property is to be dedicated or the reason the land is no longer needed for public use, the legal description of the property, and the address or a general description of the property sufficient to provide the public with notice of its location.

**[22.05.115 PROPERTY EXCHANGES.**

THE COUNCIL MAY APPROVE, BY ORDINANCE, AFTER PUBLIC NOTICE AND AN OPPORTUNITY FOR PUBLIC HEARING, THE CONVEYANCE AND EXCHANGE OF A PARCEL OF CITY PROPERTY FOR PROPERTY OWNED BY ANOTHER PERSON SUBJECT TO SUCH CONDITIONS AS COUNCIL MAY IMPOSE ON THE EXCHANGE, WHENEVER IN THE JUDGMENT OF THE CITY COUNCIL IT IS ADVANTAGEOUS TO THE CITY TO MAKE THE PROPERTY EXCHANGE.

**22.05.120 PROPERTY SALE TO ADJACENT OWNERS.**

THE COUNCIL MAY APPROVE, BY ORDINANCE, AFTER PUBLIC NOTICE AND AN OPPORTUNITY FOR PUBLIC HEARING, THE SALE AND CONVEYANCE OF A PARCEL OF CITY PROPERTY AT ITS APPRAISED VALUE TO THE OWNER OF ADJACENT LAND WHENEVER, IN THE JUDGMENT OF THE CITY COUNCIL, THE PARCEL OF LAND IS OF SUCH SMALL SIZE, SHAPE, OR LOCATION THAT IT COULD NOT BE PUT TO PRACTICAL USE BY ANY OTHER PARTY AND, IN ADDITION

THERETO, WHERE THERE IS NO FORESEEABLE NEED OF THE LAND FOR ANY FUTURE USE BY THE CITY.

**22.05.125 GRANT OR DEVOTION.**

THE COUNCIL, BY ORDINANCE, MAY WAIVE THE PROVISIONS OF THIS CHAPTER AND LEASE, GRANT OR DEVOTE REAL PROPERTY NO LONGER NEEDED BY THE CITY FOR PUBLIC PURPOSE TO THE UNITED STATES, THE STATE OF ALASKA, A LOCAL POLITICAL SUBDIVISION OF THE STATE OF ALASKA, OR ANY AGENCY OF ANY OF THESE GOVERNMENTS OR A NON-PROFIT CORPORATION, FOR A CONSIDERATION AGREED UPON BETWEEN THE CITY AND GRANTEE WITHOUT A PUBLIC SALE IF THE GRANT, DEVOTION OR LEASE IS ADVANTAGEOUS TO THE CITY.]

**22.05.130 Special Use [P]Permits.**

The City Council may authorize the City Manager to grant special use permits for the temporary use of real property owned by the City for a period not to exceed [FIVE (5)] one (1) year[S], without appraisal of the value of the property or public auction, for any purpose compatible with the zoning of the land, and on such terms and for such rentals as the [C]Council shall determine.

**22.05.135 Acquisition of [R]Real [P]Property.**

(a) The City, by authorization of the City Council, expressed in a resolution for such purpose, may lease, purchase or acquire an interest in real property needed for a public [USE] purpose on such terms and conditions as the Council shall determine. No purchase shall be made until a qualified independent appraiser has appraised the property and given the Council an [INDEPENDENT ]opinion as to the [FULL AND TRUE ]fair market value [THEREOF ]of the land unless the Council, upon resolution so finding, determines that the public interest will not be served by an appraisal.

[(B) BECAUSE OF THE UNIQUE VALUE OF REAL PROPERTY, THE CITY NEED NOT ACQUIRE OR LEASE REAL PROPERTY BY COMPETITIVE BIDDING.]

(c) Rights-of-way and easements may be accepted or issued by the City Manager after approval by the City Council for utility lines and services of all types and for necessary rights-of-way easements. This requirement does not apply to rights-of-way or easements dedicated through the City and Borough platting process.

DRAFT

# CITY OF KENAI LAND MANAGEMENT PLAN

Draft: June 2019





## CONTENTS

---

Executive Summary.....	1
Acknowledgements.....	2
Introduction and Background Information.....	3
City-Owned Parcels.....	3
Funds.....	3
Kenai Municipal Code.....	4
Kenai Comprehensive Plan and Land Use Plan.....	4
Leases.....	4
Lands Inventory.....	5
Retain - Existing Public Facilities.....	6
Retain - Public Purpose.....	8
Available for Lease or Sale.....	8
Available for Lease Only.....	8
Unavailable - Under Active Lease.....	9
Tidelands.....	9
Parcels for Further Study.....	9
Implementation Strategy.....	13
References.....	14
Appendix A. Index.....	15
Appendix B. Tables and Figures.....	25
Appendix C. Public Meetings.....	26





# EXECUTIVE SUMMARY

---

PLACEHOLDER

# ACKNOWLEDGEMENTS

---

## **City Council**

Name  
Name  
Name  
Name  
Name  
Name  
Name

## **Planning and Zoning Commission**

Name  
Name  
Name  
Name  
Name  
Name  
Name

## **City Staff**

Name  
Name  
Name  
Name  
Name  
Name  
Name

## **Special Thank you**

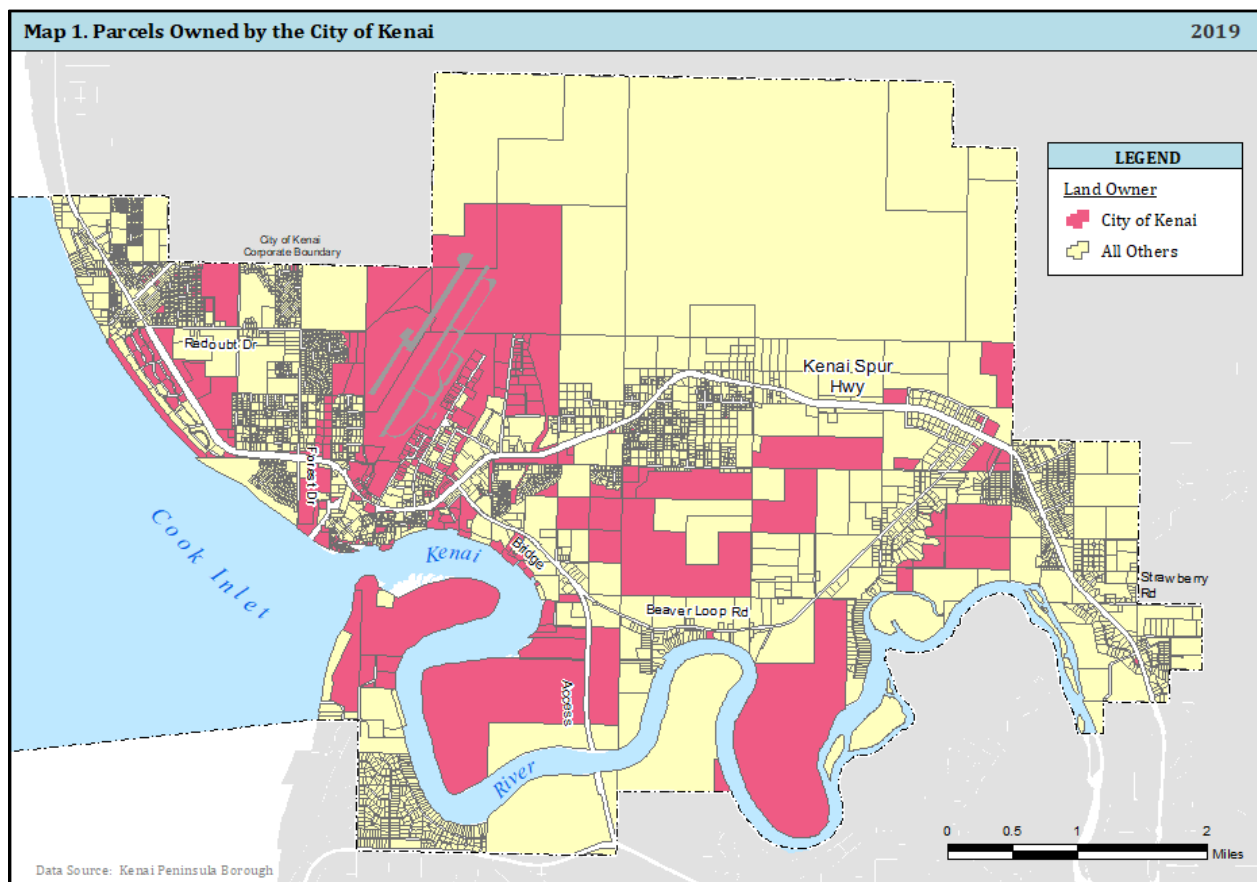
Name  
Name  
Name  
Name  
Name  
Name

## INTRODUCTION AND BACKGROUND INFORMATION

This land management plan describes current conditions of City-owned property and actions to retain, improve, or dispose of property. The plan provides a lands inventory, description, and recommendations for each parcel that was developed through a public process to allow for valuable input into the disposition of City-owned lands.

### CITY-OWNED PARCELS

The City of Kenai owns a total of 358 subdivided parcels of land which have been obtained from the Federal Government of the United States, State of Alaska, Kenai Peninsula Borough, and private donations.



### FUNDS

Approximately 65 percent of the parcels owned by the City of Kenai are tied to the General Fund. The approximately 35 percent remaining parcels are tied to the Airport Fund.

## KENAI MUNICIPAL CODE

### KENAI COMPREHENSIVE PLAN AND LAND USE PLAN

The *2016 Imagine Kenai 2030 City of Kenai Comprehensive Plan* contains the Land Use Plan. This plan describes land management specific to City-owned parcels, and the Land Use Plan describes a generalized pattern of existing and desirable land use for all lands within the City.

### LEASES

About 13 percent of City-owned parcels are under an active lease.

## LANDS INVENTORY

---

This section contains a comprehensive list of all parcels owned by the City of Kenai and data about each parcel. The inventory will provide the input for land management decisions by the City. The following fields have been populated for each parcel when they are applicable and the data is available:

- Parcel Number: The assigned to the parcel by the Kenai Peninsula Borough
- Address: If available, the physical address of the parcel
- Fund: Denotes whether the parcel is within the City's Airport Fund or General Fund
- Facility: If applicable, lists any existing City facilities on the parcel
- Map Thumbnail: Small map showing the aerial imagery for the parcel
- Legal Description: Land description location of the written words delineating real property
- Township/Range/Section: Refers to terms used in the Public Lands Survey System
- Size: Given in acres and square feet
- KPB Assessed Value: Kenai Peninsula Borough assessed value for current year taxes
- Zoning District: Gives the City of Kenai zoning district for the parcel
- Land Use Plan Classification: City of Kenai land use plan classification category for the parcel
- Summary Recommendation: This field gives the staff recommendation for the parcel and is the categorical basis for sorting parcels in the report
- Detailed Description: In-depth description of the parcels, including its physical features and development considerations
- Detailed Recommendation: In-depth analysis and consideration of the best use for the parcel

Parcels have been placed into the following categories based on the Summary Recommendation:

- **Retain - Existing Public Facilities**: A parcel with a public facility, typically a park or building
- **Retain - Public Purpose**: A vacant parcel to be retained for a public purpose
- **Available for Lease or Sale**: Parcel available for lease or to be purchased from the City
- **Available for Lease**: Parcels available for lease from the City
- **Unavailable – Under Active Lease**: Parcels with lessees in active lease agreements with the City
- **Tidelands**: Parcels with leases of tidelands for shore fisheries
- **Parcels for Further Study**: Parcels where further research or action is needed before a decision to retain or dispose of the parcel may be made

RETAIN - EXISTING PUBLIC FACILITIES

SAMPLE ONLY

**Parcel Number:**  
**04701008**

200 Spruce Street South  
General Fund

**Facility: Kenai Municipal Park, Little League Fields**

**Legal Description:** Govt Lots 41-43, 60, 62-66, 83-90, 105-112, 124-126, 133-135, 149-151, 159-161, 164-166 Excl that portion described as: S 0 deg 13 min E 77.88 ft & S 86 deg 5 min E 35.09 ft from N 1/4 corner Section 6 T5N R11W

**Township/Range/Section:** 6N, 12W, Section 25

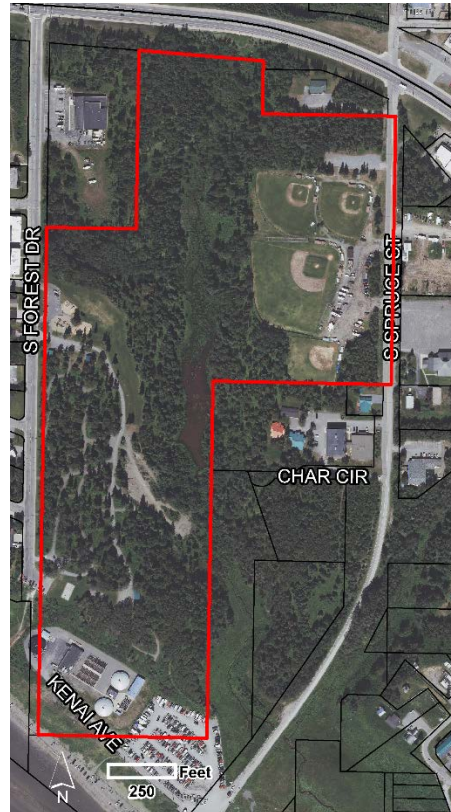
**Size:** 72.21 acres (3,145,468 square feet)

**2018 KPB Assessed Value:** \$7,980,500

**Zoning District:** Conservation (C)

**Land Use Plan Classification:** Parks, Recreation, & Open Space, Institutional

**Summary Recommendation:**  
Retain for a Public Purpose



**Detailed Description:** 33 separate Government Lots with portions of 7 additional lots make up this 45+ acre parcel. A large swale is located in the center and lower east side of the parcel, with steep high bluffs on each side. The drainage running through this swale (Richka Creek) drains from a large wetland complex to the north and empties into Cook Inlet. The city wastewater treatment plant and its parking area is partially located on Government Lots 164-166 of this parcel. The little league fields are substantially located on Government Lots 64, 84-89, 106-111, 125, 126. The community park facilities appear to span the upland portions of the remaining lots. A small portion of the little league field development appears to encroach onto parcel 04701028, owned by KPCCC Group Inc. The wastewater treatment plant encroaches into the 35-foot wide public ROW along the west boundary. This ROW was dedicated to the public by document from the City in 1968 (Misc 30/154). It may also encroach onto parcel 04701027, owned by Vern Lofstedt. The parking area extends into Government Lots 168, 169, 170, 171 in parcel 04701025, also city owned. Portions of Government Lots 43, 60, 66, 83 and 90 were deeded to the State of Alaska Military Dept by the city in 1968, the location of the National Guard Armory.

SAMPLE ONLY

**Parcel Number:**  
**04701008**

**Detailed Recommendation:** The Government Lots have been combined under one parcel number for ease of assessing, although the government lots remain separate lots until they are replatted. This may be of use at some point in a lease description or development of the property or if the city needs or wants to obtain new parcel numbers. Three separate developments are located on the parcel and separation of the parcel into new parcels with the individual government lots that contain those facilities, with the assignment of new separate parcel numbers, would make inventory and management of the lands easier. The facilities on the parcel are managed by two different city departments. Retention of the land contained in the multi-lot parcel is recommended to control and maintain the drainage and to support the existing city development on the parcel. An as-built of all development is also recommended, and vacation of the portion of S Forest Drive ROW containing the encroachment should be pursued. This portion of the ROW would not support construction of a road for vehicular traffic due to steep terrain. If the as-built shows encroachments into any surrounding private parcels, those should be resolved with easements or other means. It should be verified that all uses of the parcel comply with the zoning.



RETAIN - PUBLIC PURPOSE

AVAILABLE FOR LEASE OR SALE

AVAILABLE FOR LEASE ONLY

<b>SAMPLE ONLY</b>	<b>Parcel Number:</b> <b>04322008</b> 235 Trading Bay Road Airport Fund
	<b>Legal Description:</b> Lot 8, Block 2, Cook Inlet Industrial AirPark Subd
	<b>Township/Range/Section:</b> 6N, 11W, Section 32
	<b>Size:</b> 1.21 acres (52,708 square feet)
	<b>2018 KPB Assessed Value:</b> \$128,900
	<b>Zoning District:</b> Central Mixed Use (CMU)
	<b>Land Use Plan Classification:</b> Central Commercial
<b>Summary Recommendation:</b> Available for Lease Only	
	
<b>Detailed Description:</b> This is a 1.21 acre parcel created by a 1966 subdivision. A deed of release was recorded in 1973, allowing the lease or sale of the lots for other than airport purposes. The parcel is now located in the Airport Reserve, and is available for lease, not sale. Improvements to the infrastructure in the subdivision (water, sewer, pavement, sidewalks, etc) were funded by the US Department of Commerce in 1973, with a requirement that the city retain ownership of the improvements for 30 years. Funds generated by lease go to the airport fund. The parcel is surrounded by privately owned lands, most of which are developed. The parcel was one of three that were leased to Sea-Land Freight Service, Inc in 1975 for one year; the amended purpose was for 'terminal facilities, warehousing, storage and other related activities inherent in the operation of a transportation facility'. It appears that the parcel was never developed. In 1978, a 99-year lease was issued for the same three lots (6, 7, 8 Block 2) to Gerald Browning and Glen Henry for 'diesel and automotive repair and parts sales'. The required development proved to be economically unfeasible and at the request of the lessees, the lease was rescinded in 1980. A 99 year lease for Lot 8 Block 2 was granted to Julie Latta in 2002 to be developed to 'provide additional lodging facilities for the proposed Kenai Airport Lodge'. Two amendments were granted to extend the completion date for required construction; the parcel was not developed and a mutual rescission of the lease was recorded in 2007.	

**Detailed Recommendation:** This parcel's central location, along with the city services and the close proximity to the airport, make it attractive for lease. Costs for development of the lot should be fairly reasonable - it is level with no wetlands and is easily accessible. If any site development was undertaken in association with the previous leases, that could further enhance the lot's attraction. City services and paved access are already in place.

UNAVAILABLE - UNDER ACTIVE LEASE

TIDELANDS

PARCELS FOR FURTHER STUDY

SAMPLE ONLY

	<p><b>Parcel Number:</b> <b>04301102</b> 12751 Kenai Spur Highway General Fund</p>
<p><b>Legal Description:</b> Tract F, Dena'ina Point Estates Subdivision</p>	
<p><b>Township/Range/Section:</b> 6N, 12W, Section 36</p>	
<p><b>Size:</b> 2.24 acres (97,574 square feet)</p>	
<p><b>2018 KPB Assessed Value:</b> \$48,800</p>	
<p><b>Zoning District:</b> Suburban Residential (SR)</p>	
<p><b>Land Use Plan Classification:</b> Mixed Use</p>	
<p><b>Summary Recommendation:</b> Future Determination for Use</p>	
<p><b>Detailed Description:</b> This 2.24 acre tract fronts on the Kenai Spur Highway. There is a 52 acre private parcel between this tract and the Inlet. The tract has no bluff frontage and is located approximately 140 feet from the edge of the bluff. This subdivision of city owned land was contracted by the city in 1984 and created 29 larger acreage tracts, most of which were intended for resubdivision and development. The city still owns 14 tracts in the subdivision. Water and sewer service extends along the Kenai Spur Hwy, with two stubouts to the boundary of the subdivision. The roads in the subdivision are not constructed. None of the lots have been developed, with the exception of Tract A-5 which was resubdivided, along with adjoining property, into the Augustine Addition.</p>	

**Detailed Recommendation:** A 1984 ordinance retained this tract for public purpose; that restriction was reversed by a 1987 ordinance which designated the tract suitable for sale. The city owns the long narrow tract to the east, for a total highway frontage of over 1700 feet. The 52 acre privately owned parcel to the south has no highway frontage. There is substantial residential development to the east of the adjoining 52 acre private parcel. It may be beneficial to retain Tract F until the 52 acre private parcel is considered for development - the highway frontage provided by the city owned lands could be beneficial to an adjoining developer in providing alternate ingress/egress for any future development. Development of the large private parcel could also affect development options for the subject parcel. The subject parcel is suitable for sale and development at this time; retention of the long narrow highway frontage lot for access to the large private parcel could protect future access issues. The RS zoning may limit or influence development potential, with most commercial development requiring a conditional use permit.

SAMPLE ONLY

**Parcel Number:**

**04312003**

1397 Kenai Spur Highway

General Fund

**Legal Description:** Tract A, Five Iron Highs Subdivision

**Township/Range/Section:** 6N, 11W, Section 31

**Size:** 2.5 acres (108,900 square feet)

**2018 KPB Assessed Value:** \$83,800

**Zoning District:** Conservation (C)

**Land Use Plan Classification:** Parks, Recreation, & Open Space

**Summary Recommendation:**

Retain for a Public Purpose



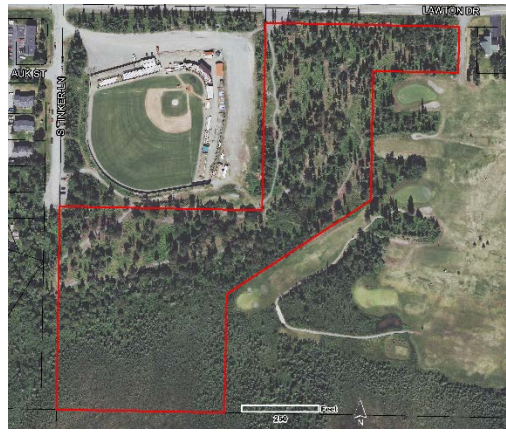
**Detailed Description:** This is a 2.5 acre government lot. The large cleared area on Lot 73 adjacent to the north boundary extends onto this lot. Scott Curtin provided the information that this is one of the city's storm water detention ponds, serving Forest Avenue and Woodlands Subdivision areas. The pond allows silt and debris to settle before the water drains into Richka Creek and eventually flows into the Inlet. The settling area is located at the top of the steep bank that drops off to Richka Creek to the east. A clearing project to remove accumulated growth is scheduled as maintenance for 2019. Access to the northwest corner of this lot is from Third Avenue, a half dedication. A steep bank cuts through the middle of the parcel and extends down to Richka Creek in the easterly portion of the parcel.

**Detailed Recommendation:** It is recommended that the city retain the entire lot for creek protection and maintenance. Although the majority of the settling pond is currently located on the lot to the north, expansion or maintenance of the pond may require additional use of the subject lot. The creek provides drainage from the large wetland complex to the north. The steep slope down to the creek, along with the creek and its corridor, occupy approximately 2/3 of the eastern portion of the lot and limit its development potential. If the city decides to connect the dedications of Cheryl Street and Third Avenue (see Lot 73: 04308008), a portion of the dedication at the intersection will need to come from this lot.

SAMPLE ONLY

**Parcel Number:**  
**04938215**  
1100 Lawton Drive  
General Fund

<b>Legal Description:</b> Tract A, Five Iron Highs Subdivision
<b>Township/Range/Section:</b> 5N, 11W, Section 3
<b>Size:</b> 15.48 acres (674,309 square feet)
<b>2018 KPBA Assessed Value:</b> \$183,900
<b>Zoning District:</b> Recreation (R)
<b>Land Use Plan Classification:</b> Parks, Recreation, & Open Space
<b>Summary Recommendation:</b> Retain for a Public Purpose



**Detailed Description:** This is a 15.5 acre tract resulting from subdivision of portions of 4 government lots. There is a steep bluff in the southerly portion of the parcel, dropping off to almost 5 acres which is classified freshwater forested/shrub wetland on the NWI. Use or transfer of the parcel is restricted under a federal grant (LWCF 02-00119). The parcel is located between the Oilers Ballfield and the golf course, fronting on Lawton Drive (constructed) and S Tinker Lane (not constructed adjacent to this parcel).

**Detailed Recommendation:** Retention of the land by the city, or transfer to another public entity with the recreational use restriction attached, is required by the LWCF funding. It does not appear that this tract was excluded from that LWCF project area. This restriction should be verified. There may be recreational lease opportunities for the lot, including winter use associated with the ski trails on the golf course property or summer use associated with golf course expansion and amenities. With the nearby schools and residential areas, public park development would also be an option.

## IMPLEMENTATION STRATEGY

---

Short Term (1 Year)

Middle Term (1-3 Years)

Long Term (3+ Years)

# REFERENCES

---

*2016 Imagine Kenai 2030 City of Kenai Comprehensive Plan*

## APPENDIX A. INDEX

Parcel Number	City Facility	Category	Inventory Page Number
03901065			
03902243			
03903421			
03905203			
03905204			
03905205			
03905322			
03905323			
03905324			
03905325			
03905327			
03905328			
03905329			
03905330			
03905331			
03906141			
03906309			
03906310			
03906311			
03907009			
03910107			
03910109			
03910111			
03910112			
03910208			
03910209			
03910211			
03910304			
03910308			
03910309			
03910310			
03910311			
03910312			
03910321			
03910322			
03910323			
03910324			
03911003			



Parcel Number	City Facility	Category	Inventory Page Number
03911009			
03911010			
03911011			
03911012			
03911013			
03911014			
03911015			
03911016			
03913112			
03913113			
03913114			
03913115			
03913117			
03913118			
03913202			
04101004			
04101013			
04101021			
04101022			
04101111			
04101112			
04101113			
04101114			
04101115			
04103009			
04103019			
04103034			
04103040			
04103047			
04103051			
04103059			
04106201			
04106202			
04108003			
04108013			
04108016			
04108018			
04108019			
04301029			
04301033			

Parcel Number	City Facility	Category	Inventory Page Number
04301034			
04301038			
04301039			
04301040			
04301041			
04301042			
04301101			
04301102			
04301301			
04301302			
04301401			
04301402			
04301403			
04301404			
04301501			
04301502			
04301503			
04301504			
04301601			
04301701			
04301804			
04304004			
04304011			
04304017			
04305017			
04305035			
04308004			
04308008			
04308009			
04310039			
04312003			
04312004			
04312007			
04312008			
04314009			
04314010			
04314103			
04314104			
04315011			
04315012			

Parcel Number	City Facility	Category	Inventory Page Number
04315013			
04316006			
04316008			
04316017			
04317003			
04317037			
04317038			
04318043			
04318044			
04322008			
04322020			
04322021			
04322023			
04323013			
04323014			
04323017			
04323031			
04324002			
04324003			
04324004			
04324005			
04324006			
04324010			
04324011			
04324012			
04324015			
04324016			
04324017			
04324018			
04324019			
04324020			
04324021			
04324024			
04324025			
04324026			
04324027			
04324028			
04327010			
04327014			
04327015			

Parcel Number	City Facility	Category	Inventory Page Number
04327019			
04327020			
04327021			
04327028			
04327029			
04327030			
04327031			
04327032			
04327033			
04327034			
04327035			
04327036			
04331022			
04331036			
04333001			
04333006			
04333007			
04333008			
04333009			
04333010			
04335001			
04336001			
04336002			
04336003			
04336004			
04336016			
04336017			
04336018			
04336024			
04336028			
04336029			
04336033			
04336034			
04336035			
04336036			
04336037			
04336038			
04336039			
04336040			
04336043			

Parcel Number	City Facility	Category	Inventory Page Number
04336046			
04336047			
04336048			
04337001			
04337002			
04337004			
04337005			
04338001			
04338002			
04338003			
04338004			
04339006			
04339007			
04339026			
04339027			
04339052			
04339053			
04339054			
04501003			
04501022			
04501023			
04501030			
04501031			
04501032			
04501033			
04501034			
04501035			
04501036			
04501037			
04501038			
04501039			
04501040			
04501041			
04501042			
04501043			
04501044			
04501045			
04501046			
04501047			
04501048			

Parcel Number	City Facility	Category	Inventory Page Number
04501049			
04501050			
04501051			
04501052			
04501053			
04501054			
04501055			
04501056			
04501057			
04506006			
04506008			
04513025			
04521047			
04701008	Kenai Municipal Park, Little League Fields	Retain - Public Facilities	
04701018			
04701019			
04701024			
04701025			
04705101			
04705205			
04705215			
04705216			
04705501			
04705506			
04705510			
04705602			
04705701			
04705805			
04705806			
04705807			
04706119			
04706129			
04706133			
04706134			
04707405			
04707408			
04708101			
04708104			
04708106			

Parcel Number	City Facility	Category	Inventory Page Number
04708107			
04708108			
04708109			
04708110			
04708111			
04708201			
04708202			
04708301			
04708305			
04708309			
04708402			
04708405			
04708406			
04708503			
04708504			
04708612			
04709301			
04709302			
04709304			
04709305			
04709307			
04710105			
04710106			
04710301			
04710311			
04711308			
04711309			
04711310			
04711311			
04711312			
04711502			
04711602			
04711901			
04711902			
04711903			
04711907			
04716001			
04716002			
04716005			
04901016			

Parcel Number	City Facility	Category	Inventory Page Number
04901017			
04901022			
04901062			
04901121			
04901124			
04901125			
04901130			
04901131			
04901132			
04901403			
04901404			
04904002			
04904029			
04904031			
04904086			
04910014			
04910053			
04910054			
04910105			
04910106			
04910107			
04910108			
04911010			
04911011			
04912065			
04916017			
04926125			
04926126			
04926210			
04926216			
04935006			
04937002			
04938052			
04938215			
04938216			
04938217			
04945002			
04945003			
04945004			
04945005			



Parcel Number	City Facility	Category	Inventory Page Number
04945009			
06361018			

**APPENDIX B. TABLES AND FIGURES**

---

## APPENDIX C. PUBLIC MEETINGS

---

Documentation of public outreach

## APPENDIX D. MAPS

Appendix of maps in 11x17 sizes.



*"Village with a Past, City with a Future"*

210 Fidalgo Ave, Kenai, Alaska 99611-7794  
Telephone: (907) 283-7535 | Fax: (907) 283-3014  
www.kenai.city

## STAFF REPORT

To: Planning & Zoning Commission

From: Elizabeth Appleby, City Planner

Date: July 19, 2019

Subject: Resolution PZ2019-24 – Preliminary Subdivision Plat – Shoreline Heights Thiele Replat

Applicant: Kim Thiele  
36901 Mallard Road  
Kenai, AK 99611

Submitted By: Edge Survey and Design LLC  
12501 Old Seward Highway, Suite D  
Anchorage, Alaska 99515

Requested Action: Preliminary Subdivision Plat – Shoreline Heights Thiele Replat

Legal Description: Lot 13, Shoreline Heights 2014 Addn. Phase 1  
Lot 12, Shoreline Heights 2014 Addn. Phase 1

Property Address: 1521 Pey Drive  
1525 Pey Drive

KPB Parcel No: 03914136  
03914135

Lot Size: 44,867 square feet (1.03 acres)  
44,867 square feet (1.03 acres)

Existing Zoning: Rural Residential (RR)

Current Land Use: Vacant Lots

Land Use Plan: Low Density Residential

## GENERAL INFORMATION

---

The applicant, Mr. Kim Thiele, owns Lots 12 and 13, Shoreline Heights 2014 Addition, Phase 1, and has submitted a plat that would vacate the property lines between the two lots to create one larger lot. Mr. Thiele wishes to construct a residence on Lot 13, Shoreline Heights 2014 Addition. The site plan that was submitted with the building permit application disclosed that the proposed structure extends to the north property line of Lot 13 and would not meet the building set back requirements. The property owner decided that vacating the property line between Lots 12 and 13 would be the best option to create a larger lot that will accommodate the proposed structure and meet the setback requirements.

### Application, Public Notice, Public Comment

*KMC 14.10.010 General* under *Chapter 14.10 Subdivision Regulations* states preliminary plats or replats must first be submitted to the City for review prior to the submittal of the plat to the Kenai Peninsula Borough Planning Department. Kenai Municipal Code (*KMC*) *14.10.060* describes the process in more detail. The plat will be reviewed first by the City of Kenai Planning and Zoning Commission and then by the Kenai Peninsula Borough's Plat Committee and Planning Commission.

The property owners completed the City of Kenai preliminary plat submittal form. City staff deemed the application to be complete. The City of Kenai follows *Kenai Peninsula Borough Code 20.25.070* and *20.25.080* for preliminary plat submittal requirements.

City staff published notice of the consideration of the plat as part of the agenda for the City of Kenai Planning and Zoning Commission in the *Peninsula Clarion*. No public comments have been received as of July 19, 2019.

## ANALYSIS

---

The parcels are within the Rural Residential (RR) Zone of the City of Kenai. Pursuant to *KMC 14.24.010 Minimum lot area requirements*, the minimum lot size for a single family dwelling is 20,000 square feet. The proposed Lot 13A, Shoreline Heights Thiele Replat would be approximately 2.056 acres (approximately 89,734 square feet) and meets the minimum lot size requirements. The upland acreage is approximately 1.368 acres (approximately 59,590 square feet) The proposed lot also meets the minimum lot width of ninety (90) feet as specified by *KMC 14.24.020 General requirements*.

Pey Drive provides access to the proposed lot and is a paved City-maintained street. The right-of-way for Pey Drive is sixty feet (60') in width, which meets the minimum width of sixty feet (60') pursuant to *KMC 14.10.070(b)(2) Subdivision design standards, Street and Alley Width*. The proposed plat does not dedicate any additional rights-of-way. Street names are denoted accurately on the preliminary plat.

City of Kenai water lines are within the right-of-way of Pey Drive. The property owner will be required to connect to City water service because existing public water lines are within 200 feet of the property, pursuant to *KMC 17.10 Connection to Public Water System*. The property owner will be required to install a septic system pursuant to the regulations of the Department of Environmental Conservation (DEC).

The easement for utilities is along the front ten feet (10') of the property line fronting Pey Drive. An installation agreement is not required.

Based upon the submitted materials and this review, the preliminary plat meets requirements of *KMC Subdivision design standards* and *KMC 14.10.080 Minimum improvements required under Chapter 14.10 Subdivision Regulations*. City staff recommends a condition of approval for the property to conform to all federal, State of Alaska, and local regulations.

## **RECOMMENDATIONS**

---

City staff recommends approval of the preliminary plat of Shoreline Heights Thiele Replat, subject to the following condition:

1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.

## **ATTACHMENTS**

---

1. Resolution No. PZ2019-24
2. Application
3. Site Plan for Proposed Residence
4. Preliminary Plat
5. Map



**CITY OF KENAI  
PLANNING AND ZONING COMMISSION  
RESOLUTION NO. 2019 - 24**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI **RECOMMENDING** THAT SHORELINE HEIGHTS THIELE REPLAT ATTACHED HERETO AS EXHIBIT “A” BE APPROVED SUBJECT TO THE CONDITIONS OUTLINED BELOW.

WHEREAS, the City of Kenai received the plat attached as Exhibit A from Edge Survey and Design, LLC; and,

WHEREAS, the plat meets City Code requirements of the Rural Residential Zone; and,

WHEREAS, the plat accurately represents street names and surrounding properties; and,

WHEREAS, the plat will not change the existing access to the properties; and,

WHEREAS, Pey Drive, which is a paved and City-maintained road, provides access to the property; and,

WHEREAS, the plat accurately shows utility easements; and,

WHEREAS, City water lines are located within the right-of-way of Pey Drive and the property owner will be required to connect to City water service; and,

WHEREAS, the property owner will install a private septic system, pursuant to the regulations of the State of Alaska, Department of Environment Conservation (DEC); and

WHEREAS, an installation agreement is not required.

WHEREAS, the Planning and Zoning Commission finds:

1. Pursuant to Kenai Municipal Code 14.10.070 Subdivision design standards, the plat conforms to the minimum street widths, an easement is sufficiently provided for utilities, the proposed lot would be arranged to provide satisfactory and desirable building sites, and the proposed lot meets standards for connection to City water lines.
2. The property owner will install a private septic system pursuant to the regulations of the State of Alaska, Department of Environmental Conservation.
3. Pursuant to Kenai Municipal Code 14.10.080 Minimum improvements required, there is adequate access and facilities available to the proposed parcel. An installation agreement is not required.



4. Pursuant to Kenai Municipal Code 14.24.010 Minimum lot area requirements, the lot meet City standards for minimum lot sizes.
5. Pursuant to Kenai Municipal Code 14.24.020 General Requirements, the lots meet City standards for minimum lot width, maximum lot coverage, maximum height, and setbacks.

NOW, THEREFORE, BE IT RECOMMENDED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA:

**Section 1.** That the Shoreline Heights Thiele Replat attached as Exhibit "A" be approved subject to the following condition:

1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, this 24th day of July, 2019.

---

JEFF TWAIT, CHAIRPERSON

ATTEST:

---

JAMIE HEINZ, CITY CLERK





**CITY OF KENAI PLANNING DEPARTMENT  
PRELIMINARY PLAT SUBMITTAL FORM**

APPLICANT	Kim Thiele
MAILING ADDRESS	36 901 Mallard Rd
CITY, STATE, ZIP	Kenai, AK 99611
PHONE	283-5000

NAME OF PLAT	Shoreline Heights - Thiele Plat	
	Preliminary Plat	Revised Preliminary Plat

CURRENT ZONING WHERE APPLICABLE: Rural Residential 1

USE:  Residential     Recreational     Commercial     Other

SEWER:  On Site     City     Community

WATER:  On Site     City     Community

Vacation of Public Right-of-Way    Yes     No

STREET NAME:

EXCEPTIONS REQUIRED AND REQUESTED:

None

COMMENTS:

  
Applicant's Signature

2014-24  
6/24/14  
Date

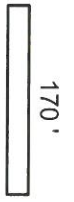
**RECEIVED**  
CITY OF KENAI  
DATE 6/27/14  
PLANNING DEPARTMENT

6/24/2014





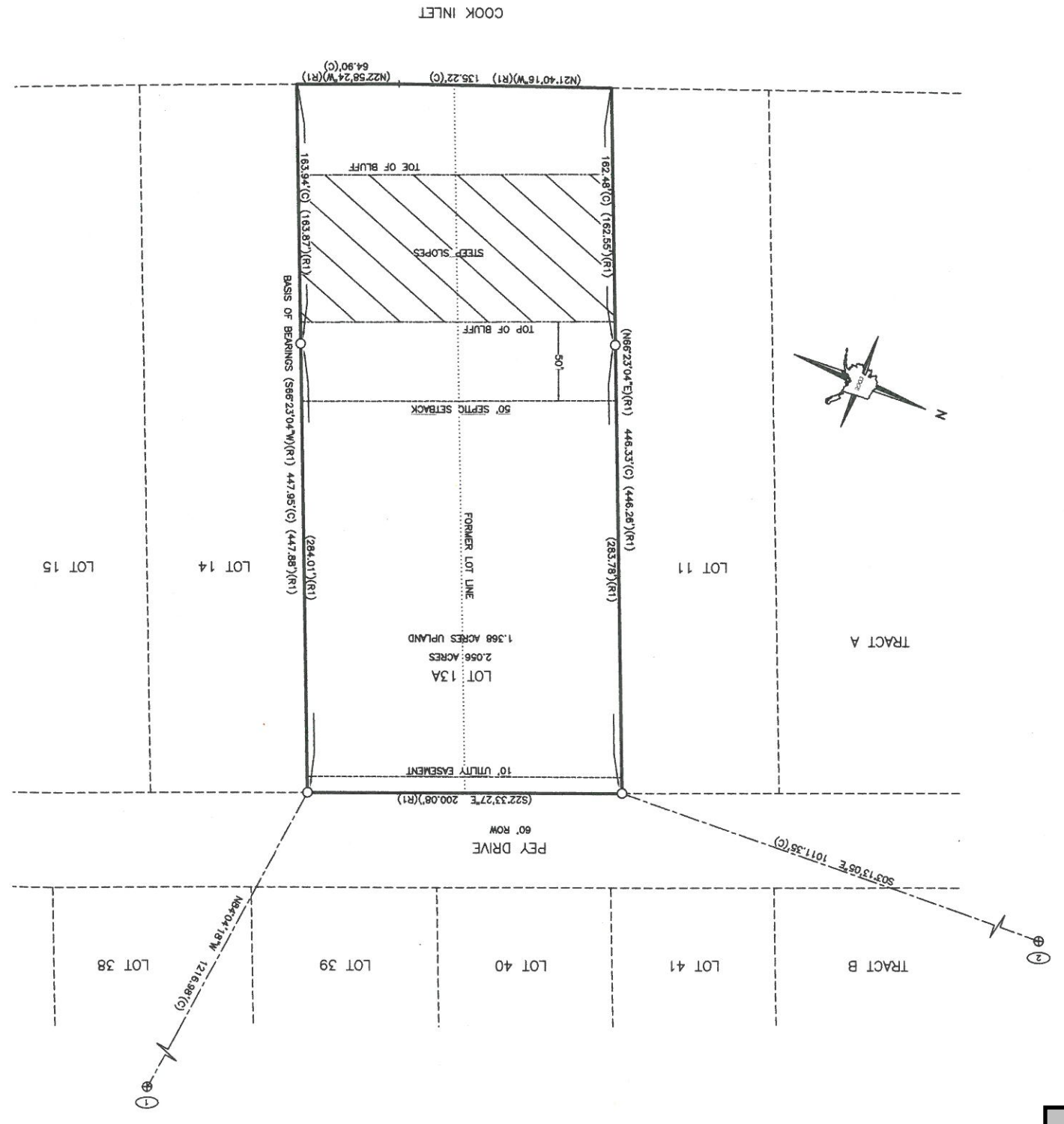
Lots 12 and 13, SHORE HEIGHTS SUBD. 2014 A PHASE 1



1 inch equals 167 feet

The information depicted here on is for graphic representation only of the best available sources. The City of Kenai assumes no responsibility for errors on this map.

Date: 7/16/2019

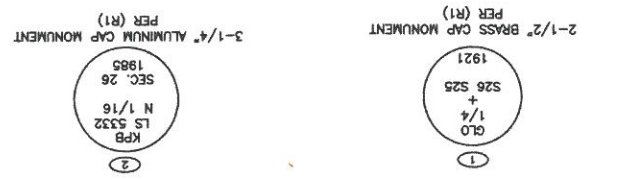


**PLAT APPROVAL**  
 THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF AUGUST 28, 2019.  
 KENAI PENINSULA BOROUGH  
 AUTHORIZED OFFICIAL



I, MARK AMONETTI 13022-S, HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF ALASKA AND THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT THE MONUMENTS SHOWN ON THIS SURVEY ACTUALLY EXIST AS DESCRIBED, AND THAT ALL DIMENSIONAL AND OTHER DETAILS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

**CERTIFICATE OF SURVEYOR**



**MONUMENT REFERENCE**

(R1) PLAT 2015-24, SHORELINE HEIGHTS 2014 ADDITION PHASE 1, KRD.

**REFERENCES**

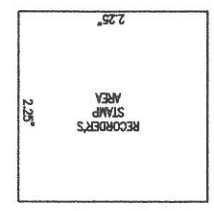
- ⊕ MONUMENT OF RECORD SEE REFERENCE
- PROPERTY CORNER SET PER (R1) STAMPED 11795
- (R#) RECORD DATA, SEE REFERENCE
- (C) PLAT RECORDED IN KENAI RECORDING DISTRICT
- (#) CALCULATED DATA
- ① MONUMENT REFERENCE NUMBER
- SUBDIVISION BOUNDARY
- EASEMENT AS NOTED
- MONUMENT TIES
- ADJACENT PROPERTY LINE
- FORMER LOT LINE
- \_\_\_\_\_ BLUFF LINES

**LEGEND**

1. THE SOLE PURPOSE OF THIS PLAT IS TO VACATE AN INTERIOR LOT LINE, NO FIELD SURVEY WAS PERFORMED FOR THIS PLATTING ACTION.
2. DEVELOPMENT OF THESE LOTS IS SUBJECT TO THE CITY OF KENAI ZONING REGULATIONS.
3. THE FRONT TEN FEET ADJACENT TO THE RIGHT-OF-WAY IS A UTILITY EASEMENT, THIS EASEMENT IS FOR ABOVE GROUND TRANSFORMERS AND PEDSTALS ONLY, ALL UNDERGROUND UTILITIES WITHIN THIS EASEMENT MUST BE INSTALLED PERPENDICULAR TO THE RIGHT-OF-WAY, NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH COULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE UTILITY EASEMENT.
4. THE NATURAL MEANDERS OF THE MEAN HIGH WATER LINE FORMS THE TRUE TIDAL BOUNDARY OF THE SUBDIVISION, THE TIDAL BOUNDARY SHOWN IS FROM RECORD DATA PER (R1), THE TRUE PROPERTY CORNER BEING THE EXTENSION OF THE SIDE LOT LINES AND THEIR INTERSECTION WITH THE NATURAL MEANDERS OF MEAN HIGH TIDE LINE.
5. FLOOD HAZARD NOTICE, SOME OR ALL OF THE PROPERTIES SHOWN ON THIS PLAT HAVE BEEN DESIGNATED BY FEMA AS A FLOOD HAZARD AREA DISTRICT AS OF THE DATE THIS PLAT IS RECORDED WITH THE DISTRICT RECORDERS OFFICE. PRIOR TO DEVELOPMENT, THE KENAI PENINSULA BOROUGH PLANNING ADMINISTRATOR SHOULD BE CONTACTED FOR CURRENT INFORMATION AND REGULATIONS. DEVELOPMENT MUST COMPLY WITH CHAPTER 21.08 OF THE KENAI PENINSULA BOROUGH CODE. THIS PLAT IS EFFECTED BY FLOOD ZONES VE AND D PER MAP PANEL 02122C-0105E.
6. WASTEWATER DISPOSAL, WASTEWATER TREATMENT AND DISPOSAL SYSTEMS MUST MEET THE REGULATORY REQUIREMENTS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

**NOTES**

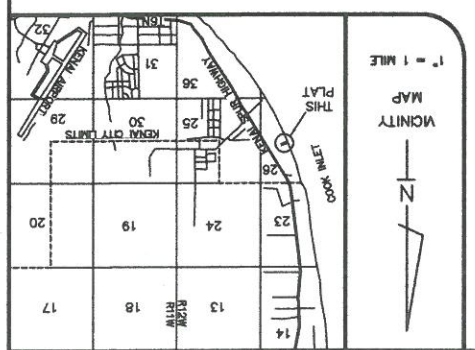
**DRAWN BY:** DATE: 6/26/19  
**CHECKED BY:** SCALE: 1" = 40'  
**SHEET:** 1 OF 1  
**FIELD BOOK:** N/A



**SHORELINE HEIGHTS**  
 KPB FILE 2019-000  
 A SUBDIVISION OF LOTS 12 AND 13 SHORELINE HEIGHTS 2014 ADDITION PHASE 1, PLAT 2015-24, KRD.  
 OWNERS: KIM THIELE  
 36901 MALLARD ROAD  
 KENAI, ALASKA 99611  
 LOCATED WITHIN THE NE 1/4 SECTION 26,  
 T6N R12W, SEWARD MERIDIAN,  
 KENAI PENINSULA BOROUGH, ALASKA  
 CITY OF KENAI  
 KENAI RECORDING DISTRICT  
 CONTAINING 2.056 ACRES



**CERTIFICATE OF OWNERSHIP AND DEDICATION**  
 I HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.  
 KIM THIELE  
 OWNER OF FORMER LOTS 12 AND 13  
 36901 MALLARD ROAD  
 KENAI, ALASKA 99611  
**NOTARY ACKNOWLEDGEMENT**  
 FOR: KIM THIELE  
 ACKNOWLEDGED BEFORE ME  
 THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2019  
 NOTARY PUBLIC FOR STATE OF ALASKA



C:\Users\jason\Documents\1-2019\Edge Jobs\Adm\18-243 Shoreline Heights\Draw\18-243 Shoreline Heights\Plan.dwg PLOTTED: 9/27/2019 2:02:23 PM  
 Young Documental - 2019 Edge Jobs Adm\18-243 Shoreline Heights\Draw\18-243 Shoreline Heights\Plan.dwg



**CITY OF KENAI  
PLANNING AND ZONING COMMISSION  
RESOLUTION NO. PZ2019-25**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI  
**GRANTING** A CONDITIONAL USE PERMIT FOR THE USE OF A GUIDE SERVICE AT 1325  
ANGLER DRIVE

APPLICANT: JEFF BRESSLER

PROPERTY ADDRESS: 1325 ANGLER DRIVE

LEGAL DESCRIPTION: LOT 18, BLOCK 1, ANGLERS ACRES SUBDIVISION PART 2

KENAI PENINSULA BOROUGH PARCEL NUMBER: 04939021

WHEREAS, a complete application meeting the requirements of Kenai Municipal Code 14.20.150 was submitted to the City on July 1, 2019; and,

WHEREAS, the applicant has demonstrated with plans and other documents that the prerequisites of a Conditional Use Permit have been met pursuant to Kenai Municipal Code 14.20.150; and,

WHEREAS, the City of Kenai Planning and Zoning Commission conducted a duly advertised public hearing on June 24, 2019, following requirements outlined in Kenai Municipal Code 14.20.280 for public hearings and notifications.

WHEREAS, the Planning and Zoning Commission finds:

1. *KMC 14.20.150(d)(1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;*

Condition Exists: The subject parcel is within the RR Zone. Pursuant to KMC 14.20.080, the intent of the zone is for low density residential development in an attractive residential environment, to prohibit uses which would violate the residential character of the environment or generate heavy traffic in a predominantly residential area, and to separate residential structures in order to prevent health hazards and preserve the rural, open quality of the environment.

Adequate parking is available on the property for the use and the use would not generate heavy traffic. The applicant notes that he will supervise clients and be mindful of noise and the privacy of his neighbors. The use will not violate the residential character of the neighborhood.

2. *KMC 14.20.150(d)(2) The value of the adjoining property and neighborhood will not be significantly impaired;*

Condition Exists: There are similar businesses associated with fishing and tourism in the neighborhood. Property owners have established similar businesses associated with fishing and tourism along Angler Drive due to its proximity to the Kenai River and Beaver Creek. Beaver Creek is to the east of the subject parcel. Private residences are to the north and south. Across Angler Drive to the west is a vacant lot.

3. *KMC 14.20.150(d)(3) The proposed use is in harmony with the Comprehensive Plan;*

Condition Exists: The proposed use is in line with goals and objectives identified in the Comprehensive Plan, including an objective for Goal 2-Economic Development to capitalize on the tourism industry. This use would not conflict with objectives in Goal 8-Environmental Resources to protect the Kenai River.

4. *KMC 14.20.150(d)(4) Public services and facilities are adequate to serve the proposed use;*

Condition Exists: The properties located along Angler Drive are serviced by well and septic, natural gas, electricity, and telephone services. The applicant notes a restroom, electricity, water, and parking already in place to serve guided fishing clients.

5. *KMC 14.150(d)(5) The proposed use will not be harmful to the public safety, health or welfare;*

Condition Exists: The use of a guide service will not be harmful to the public safety, health, or welfare. A fishing guide service was previously operated from this location until 2016 by previous owner and there were not any harmful effects to public safety, health, or welfare.

6. *KMC 14.150(d)(6) Any and all specific conditions deemed necessary by the Commission to fulfill the above-mentioned conditions should be met by the applicant. These may include, but are not limited to, measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use.*

Conditions of the conditional use permit are stated in Section 2 of the resolution.

WHEREAS, the applicant has agreed to conditions of the conditional use permit that will protect public safety health, and welfare, follow the intent of the Rural Residential Zone, and follow City requirements of the conditional use permits and bed and breakfast establishments.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA:

**Section 1.** That a conditional use permit is granted to Jeff Bressler for the use of guide service.

**Section 2.** That the conditional use permit is subject to the following conditions:

1. Applicant must comply with all federal, State of Alaska, and local regulations.



2. Applicant shall file an annual report for the Conditional Use Permit as set forth in Kenai Municipal Code 14.20.155.
3. The applicant will meet with City staff for on-site inspections when requested.
4. If there is a change of use for the above described property a new Conditional Use Permit must be obtained, pursuant to 14.20.150(i)(5).
5. Pursuant to KMC 14.20.150(i)(2), this permit shall expire automatically upon termination or interruption of the use for a period of at least one year.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA,  
this 24th day of July, 2019.

\_\_\_\_\_  
JEFF TWAIT, CHAIRPERSON

ATTEST:

\_\_\_\_\_  
JAMIE HEINZ, CMC, CITY CLERK

DRAFT



*"Village with a Past, City with a Future"*

210 Fidalgo Ave, Kenai, Alaska 99611-7794  
Telephone: (907) 283-7535 | Fax: (907) 283-3014  
www.kenai.city

## STAFF REPORT

To: Planning & Zoning Commission

From: Elizabeth Appleby, City Planner

Date: July 17, 2019

Subject: Resolution PZ2019-26 – Conditional Use Permit – Transfer of Conditional Use Permit for Surface Extraction of Natural Resources from the Estate of Mavis Cone, Transferor, to Colaska, Inc. dba QAP, Transferee

Transferor  
(current permit holder): Estate of Mavis Cone  
P.O. Box 498  
Soldotna, AK 99669

Transferee: Colaska Inc. dba QAP  
240 West 68<sup>th</sup> Avenue  
Anchorage, AK 99518

Requested Action: Transfer of Conditional Use Permit 75-54 - Surface Extraction of Natural Resources from the Estate of Mavis Cone, Transferor, to Colaska, Inc. dba QAP, Transferee

KPB Parcel No,  
Lot Size,  
Property Address,  
Legal Description: Lot size for all five adjacent parcels:  
2,824,041 square feet (60 acres)

04911029

- 592,777 square feet (11.64 acres)
- 2817 Beaver Loop Road
- Tract 1, Tundra Rose Subd., according to Plat No. 84-19

04904036

- 216,376 square feet (5 acres)
- 835 Gravel Street
- The West 330 Feet of the South 660 Feet, of Section 2, T5N, R11W, Seward Meridian

04904037

- 437,020 square feet (10 acres)
- 1605 Cone Avenue
- The West 990 Feet of the South 660 Feet Excluding Therefrom the West 330 feet, of Section 2, T5N, R11 W, Seward Meridian

04911030

- 371,904 square feet (8.2 acres)
- 2881 Beaver Loop Road
- Tract 2, Tundra Rose Subd., according to Plat No. 84-19

04911031

- 1,205,964 square feet (25.16 acres)
- 3073 Beaver Loop Road
- A Portion of the NW1/4 NW1/4 Lying North of Beaver Loop Rd., Section 11, T5N, R11W, Seward Meridian, Excluding Tundra Rose Subd

Existing Zoning: Rural Residential (RR)

Current Land Use: Surface Extraction of Gravel

Land Use Plan: Low Density Residential

## **GENERAL INFORMATION**

---

The Estate of Mavis Cone holds a conditional use permit to operate a gravel pit that covers five parcels totaling 60 acres. The City has received an application to transfer the permit to Colaska, Inc. dba QAP, LLC (QAP). The gravel pit is located with the Rural Residential (RR) Zone of the City. QAP estimates approximately 600,000 cubic yards of material, not including overburden, to be extracted from the parcels. Extraction will vary based upon demand for current and future projects. Operations will be an incremental mining and reclamation procedure.

### Application

The transferor, the Estate of Mavis Cone, submitted an applications for a transfer of conditional use permit application PZ75-54 for surface extraction of natural resources on July 3, 2019. City staff deemed the application to be complete. Prior to the submission of the application, City staff met with the transferee, QAP, and conducted a site visit on June 28, 2019.

### Public Notice, Public Comment

KMC 14.20.150(b) details application requirements for conditional use permits and KMC 14.20.151 details application requirements for surface extraction. City staff deemed the application to be complete. City staff published notice of the Planning and Zoning Commission agenda in the *Peninsula Clarion*. No public comments have been submitted to the City about the application as of July 19, 2019.

## ANALYSIS

---

### Kenai Municipal Code 14.20.150(i)(5) and 14.20.157(a) – Transfer of Conditional Use Permit for Surface Extraction of Natural Resources

Kenai Municipal Code (KMC) 14.20.150(i)(5) states the following on transfers of conditional use permits:

*KMC 14.20.150(i)(5) Transferability.* A Conditional Use Permit is not transferable from one (1) parcel of land to another. Conditional Use Permits may be transferred from one (1) owner to another for the same use, but if there is a change in use on the property, a new permit must be obtained.

The following text for KMC 14.20.157(a) is specific to transfers of conditional use permits for surface extraction:

*KMC 14.20.157(a) Amendment or transfer.* No Conditional Use Permit issued hereunder shall be transferred until the proposed transferee has made application for transfer in writing filed with the administrative official, which application shall state that he intends to be bound by the plan and statements contained in the application of the permit holder or shall contain the amendments to the plan his proposed *operation* would mandate. The Commission shall approve the application for transfer and in so doing amend the site plan and statements if such amendments as are contained in the application for transfer would have been approved had they been contained in the original application.

Resolution 75-54 does not reference a Planning and Zoning Commission resolution specific to the parcels and instead references a resolution adopted by the Kenai City Council requesting the Assembly of the Kenai Peninsula Borough amend Kenai City Code to add sub-sections to address permits for surface extraction within the City. When Resolution No. 75-74 was passed on February 4, 1976, only the Assembly of the Kenai Peninsula Borough had the power to amend the zoning ordinances for the City of Kenai. There is also documentation in the file of an approval of a conditional use permit for surface extraction by the City of Kenai Planning and Zoning Commission on June 2, 1975 and a Board of Adjustment hearing on July 16, 1975. There are no site-specific conditions on the existing permit or any documentation of existing conditions of the permit in the file.

The City requested QAP, transferee, submit a site plan and narrative of their proposed operations. The criteria for issuance of a permit for surface extraction of natural resources and for conditional use permits are reviewed in the analysis of the transfer application in order to determine appropriate amendments to the permit and to establish a clear plan and statements of the permit holder of their intended plan for operation.

The transferor, the Estate of Mavis Cone, has remained current on obligations due to the City of Kenai and the Kenai Peninsula Borough. Annual reports to the City report no extraction on site for the last three years, the maximum amount of time allowed with no activity before a conditional use permit for surface extraction may be revoked for inactivity.

### Kenai Municipal Code 14.20.154 – Issuance of Permit for Surface Extraction of Natural Resources

Criteria for the issuance of conditional use permit applications for surface extraction of natural resources are outlined in KMC 14.20.154.

- *KMC 14.20.154(a)(1) The application is in substantial compliance with the requirements of this chapter;*

Criteria Met: This application is in substantial compliance with the requirements of this chapter. The applicant has demonstrated the proposed use meets the requirements for boundaries of the proposed extraction, back slopes, public safety, and the need for gravel within the City.

- *KMC 14.20.154(a)(2) The boundaries of the proposed excavation at its greatest dimensions, including back slopes, are at least two hundred feet (200') from any road or public right-of-way and at least one hundred fifty feet (150') from other surrounding property lines, except that adjoining permitted surface extraction of natural resources sites are not required to maintain the above one hundred fifty feet (150') excavation between sites;*

Criteria Met: Buffers are not required at parcel edges that border other parcels that would be covered by the permit transfer. The applicant will meet the buffer requirements from adjacent property lines and City staff has discussed this with the applicant. Where buffers are already breached by the transferee, the applicant will install a vegetated berm and will not increase the conformity of the existing natural vegetation.

- *KMC 14.20.154(a)(3) The buffer strips between the excavation site and roadways and property lines contain sufficient natural screening to obscure the entire excavation from sight of roadways and inhabited areas. If there is not sufficient natural screening, the site plan must provide for artificial screening;*

Criteria Met: With the existing breached buffers and the widening of Beaver Loop Road, the pit is currently visible through the trees along part of Beaver Loop Road. QAP will install a six-foot high buffer to screen the extraction from Beaver Loop Road. A fence will block the entrance. Existing vegetation will be left in place following buffer requirements to sufficiently screen the pit where the buffers have not already been breached by the transferor.

- *KMC 14.20.154(a)(4) The surface extraction is outside of the one percent (1%) annual chance flood zone (one hundred (100) year floodplain), one-fifth percent (0.2%) annual chance flood zone (five hundred (500) year floodplain), and high-hazard coastal areas;*

Criteria Met: City staff confirmed all five parcels were outside of the one percent (1%) annual chance flood zone (one hundred (100) year floodplain), one-fifth percent (0.2%) annual chance flood zone (five hundred (500) year floodplain), and high-hazard coastal areas.

- *KMC 14.20.154(a)(5) The site plan provides that back slopes be a minimum of a 2:1 slope, except for the contiguous working face;*

Criteria Met: QAP states that slopes will be graded to a 2:1 slope or the natural stabilized angle of repose of the existing earth materials. QAP also notes that slopes will be stabilized and protected against erosion.

- *KMC 14.20.154(a)(6) The site plan does not provide for excavation below the water table except where a reasonable method of drainage is available at the particular site or where the proposed future development plan provides for a lake on the site of the excavation;*

Criteria Met: Extraction will be below the water table and go as deep as 15 to 20 feet. This extraction will result in a lake on the site to eventually be surrounded by residences. The Alaska Department of Environmental Conservation (ADEC) regulates water quality and air quality. The Alaska Department of Fish and Game (ADF&G) regulates anadromous salmon habitat. QAP references their intent to abide by federal, state, and borough statutes in addition to City of Kenai statutes. City staff recommends this be a condition of the permit and recommended some additional conditions to protect water quality, such as storing construction waste away from water and ensuring no passage of anadromous fish into the lake to be formed by the extraction.

- *KMC 14.20.154(a)(7) If the excavation is to be below the water table and the site is likely to endanger the public safety, the site plan shall provide for fencing of the work area;*

Criteria Met: The existing driveway leading to the current excavation would be extended as necessary to reach the new excavation. Access will be from Beaver Loop Road. Gates leading to the site will be locked to deter unwanted access. The proposed berm and fence along Beaver Loop Road will deter accidental casual access into the property. Adjacent properties are mostly other gravel pits or vacant lots.

- *KMC 14.20.154(a)(8) The proposed use of land after extraction is completed is feasible and realistic and is a use permitted in the zone in which the property is located;*

Criteria Met: The proposed long-term use of the site is for residential use. This matches the plan of most of the other gravel pits along Beaver Loop Road. QAP also mentions the potential for a campground around the lake. Potential commercial and residential development would be approved and reviewed by the City prior to implementation.

- *KMC 14.20.154(a)(9) The extraction does not destroy the land for the purposes for which it is zoned;*

Criteria Met: City staff discussed the importance of ensuring a clean water supply in the City and the applicant will take measures to monitor water levels and be mindful of what is allowed near water and sensitive areas of the landscape. QAP notes equipment and construction debris will not be disposed of in surface water. QAP will seed slopes with plants suitable for Alaska conditions and will limit erosion and dust that could affect the landscape.

- *KMC 14.20.154(a)(10) The need for the particular natural resource within the City of Kenai outweighs any detrimental effects the operation may have on surrounding property owners;*

Criteria Met: The applicant will sell some of the gravel for road projects within the City of Kenai. There are very few surrounding property owners and the benefit of a local gravel source from this location outweighs any potential detrimental effects.

- *KMC 14.20.154(a)(11) The applicant is the owner of the subject property.*

Criteria Met: The Estate of Mavis Cone submitted a copy of the Agreement to Purchase with QAP. The document states the closing is to be on or before July 31, 2019. City staff

recommends a condition of the permit be that documentation of the final sale be submitted before the permit will be issued to the QAP.

- *KMC 14.20.154(a)(12) Clearing limits shall be delineated on the site plan as well as clearly visible on site and shall be inspected by the City Planner or designee prior to the application being deemed complete.*

Criteria Met: City staff conducted a site visit on June 28, 2019. Buffers were discussed with the applicant. A six-foot vegetated berm is denoted on the site plan where buffers have already been breached. Existing vegetation will be left in place following buffer requirements where clearing limits have not already been breached.

#### Kenai Municipal Code 14.20.150(d) – Review Criteria for Conditional Use Permits

The requirements of KMC 14.20.154 are specific to conditional use permits for surface extraction of natural resources. KMC 14.20.150 contains requirements that apply to the evaluation of all conditional use permits. The requirements of KMC 14.20.150 are reviewed as follows:

- *KMC 14.20.150(d)(1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;*

Criteria Met: The property under consideration is within the Rural Residential (RR) Zone. Pursuant to KMC 14.20.080, the intent of the zone is for low density residential development in an attractive residential environment, to prohibit uses which would violate the residential character of the environment or generate heavy traffic in a predominantly residential area, and to separate residential structures in order to prevent health hazards and preserve the rural, open quality of the environment. Surface extraction is a permitted use and can be consistent with the intent of the residential zone. The proposed extraction is adjacent to an existing permitted gravel pit and vacant lots. It would not change the character of the neighborhood. This use is consistent with the purposes and intent of the RR Zone.

- *KMC 14.20.150(d)(2) The value of the adjoining property and neighborhood will not be significantly impaired;*

Criteria Met: Adjacent parcels are mostly parcels used to surface extraction and vacant lots. In order to limit disturbance in the neighborhood, QAP generally work between 7:00am and 10:00pm, except in cases of high demand mostly in summer months. QAP will not use compression release engine brakes (Jake brakes) and may use proximity alarms to reduce noise from backing vehicles.

- *KMC 14.20.150(d)(3) The proposed use is in harmony with the Comprehensive Plan;*

Criteria Met: The 2016 *Imagine Kenai 2030 Comprehensive Plan* notes on p. 74 that, areas off of Beaver Loop Road has been a conditional use to obtain economically advantageous local sources of gravel and fill, but that there is potential for conflict between surface extraction and residential uses. The location of this pit minimizes the potential for conflict with neighbors and fits with the pattern of land use along Beaver Loop Road in the City. The surface extraction will support Goals 2 and 3 for economic development and land use that

support the fiscal health of Kenai and implement a forward-looking approach to community growth.

- *KMC 14.20.150(d)(4) Public services and facilities are adequate to serve the proposed use;*

Criteria Met: There is an existing driveway from Beaver Loop Road leading into the parcels. Cone Avenue provides access at the eastern boundary of the parcel. Equipment will be mobile and structure needs will be temporary and serviced with portable toilets.

- *KMC 14.150(d)(5) The proposed use will not be harmful to the public safety, health or welfare;*

Criteria Met: The applicant notes adequate barriers and screening. The extraction will not be a safety concern or visual impairment. The applicants has plans for reclamation and will be careful about materials stored near water and maintaining separation from any anadromous water bodies.

- *KMC 14.150(d)(6) Any and all specific conditions deemed necessary by the Commission to fulfill the above-mentioned conditions should be met by the applicant. These may include, but are not limited to, measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use.*

Criteria Met: Recommended conditions are stated at the end of the report.

## RECOMMENDATIONS

---

Staff recommends the Planning and Zoning Commission approve the applications for a conditional use permit for surface extraction of natural resources, subject to the following conditions:

1. Transferee must comply with all federal, State of Alaska, and local regulations.
2. The transferee will properly store fuel oil and hazardous materials away from wetlands or other sensitive areas of the landscape.
3. The transferee will not store fill materials, such as concrete and construction waste, in or near areas with an exposed water table.
4. The transferee will block fish passage between water areas if necessary to avoid violating regulations pertaining to anadromous streams and fish habitat.
5. The transferee will limit noise disturbances and not use compression release engine brakes (Jake brakes).
6. The transferee will ensure the gate that can be used to block access from Beaver Loop Road or any other access point will be kept in working order.
7. A vegetated buffer of a minimum of six foot high will be constructed along Beaver Loop Road.



8. The transferee will not extend the nonconformity of breached buffers and install fences/berms where necessary to remedy visual disturbances. The transferee will conform to current extraction setbacks where possible on the parcels.
9. Transferee shall file an annual report for the Conditional Use Permit as set forth in Kenai Municipal Code 14.20.155.
10. The transferee will meet with City staff for on-site inspections when requested.
11. If there is a change of use for the above described property a new Conditional Use Permit must be obtained, pursuant to 14.20.150(i)(5).

#### **ATTACHMENTS**

---

- A. Resolution No. PZ2019-26
- B. Application
- C. Map



# "Village with a Past, City with a Future"

210 Fidalgo Avenue, Kenai, Alaska 99611-7794  
Telephone: 907-283-7535 / Fax: 907-283-3014  
www.kenai.city

## CITY OF KENAI PLANNING AND ZONING COMMISSION RESOLUTION NO. PZ2019-26

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI  
**GRANTING** A REQUEST FOR A TRANSFER OF CONDITIONAL USE PERMIT FOR  
SURFACE EXTRACTION OF NATURAL RESOURCES:

TRANSFeree: COLASKA INC. DBA QAP

USE: SURFACE EXTRACTION OF NATURAL RESOURCES

KENAI PENINSULA BOROUGH PARCEL NUMBERS: 04911029, 04904036, 04904037,  
04911030, 04911031

WHEREAS, a complete application meeting the requirements of Kenai Municipal Code 14.20.150 and 14.20.151 was submitted to the City on July 3, 2019; and,

WHEREAS, the application affects land zoned as Rural Residential; and,

WHEREAS, the City of Kenai Planning and Zoning Commission conducted a duly advertised public hearing on July 24, 2019, following requirements outlined in Kenai Municipal Code 14.20.280 for public hearings and notifications.

WHEREAS, the Planning and Zoning Commission finds:

1. The applicant meets criteria for surface extraction in *KMC 14.20.154(a)(1)* *The application is in substantial compliance with the requirements of this chapter;*

Criteria Met: This application is in substantial compliance with the requirements of this chapter. The applicant has demonstrated the proposed use meets the requirements for boundaries of the proposed extraction, back slopes, public safety, and the need for gravel within the City.

2. The applicant meets criteria for surface extraction in *KMC 14.20.154(a)(2)* *The boundaries of the proposed excavation at its greatest dimensions, including back slopes, are at least two hundred feet (200') from any road or public right-of-way and at least one hundred fifty feet (150') from other surrounding property lines, except that adjoining permitted surface extraction of natural resources sites are not required to maintain the above one hundred fifty feet (150') excavation between sites;*

Criteria Met: Buffers are not required at parcel edges that border other parcels that would be covered by the permit transfer. The applicant will meet the buffer requirements from adjacent property lines and City staff has discussed this with the applicant. Where buffers are already breached by the transferee, the applicant will install a vegetated berm and will not increase the conformity of the existing natural vegetation.

3. The applicant meets criteria for surface extraction in *KMC 14.20.154(a)(3) The buffer strips between the excavation site and roadways and property lines contain sufficient natural screening to obscure the entire excavation from sight of roadways and inhabited areas. If there is not sufficient natural screening, the site plan must provide for artificial screening;*

Criteria Met: The existing parcel is mostly treed. The trees provide sufficient screening to obscure the entire excavation. City staff confirmed the extraction is not visible from Beaver Loop Road or Cone Avenue. During a City staff site visit, the operator described how movable berms of overburden were placed at the northern edge of the current extraction on Tract B. Similar berms would conceal the proposed extraction on Tract C from view in areas of the parcel where trees did not provide sufficient screening. The applicant will construct a vegetated berm buffer of at least six feet high on the north and west boundaries of the extraction.

Criteria Met: With the existing breached buffers and the widening of Beaver Loop Road, the pit is currently visible through the trees along part of Beaver Loop Road. QAP will install a six-foot high buffer to screen the extraction from Beaver Loop Road. A fence will block the entrance. Existing vegetation will be left in place following buffer requirements to sufficiently screen the pit where the buffers have not already been breached by the transferor.

4. The applicant meets criteria for surface extraction in *KMC 14.20.154(a)(4) The surface extraction is outside of the one percent (1%) annual chance flood zone (one hundred (100) year floodplain), one-fifth percent (0.2%) annual chance flood zone (five hundred (500) year floodplain), and high-hazard coastal areas;*

Criteria Met: City staff confirmed all five parcels were outside of the one percent (1%) annual chance flood zone (one hundred (100) year floodplain), one-fifth percent (0.2%) annual chance flood zone (five hundred (500) year floodplain), and high-hazard coastal areas.

5. The applicant meets criteria for surface extraction in *KMC 14.20.154(a)(5) The site plan provides that back slopes be a minimum of a 2:1 slope, except for the contiguous working face;*

Criteria Met: QAP states that slopes will be graded to a 2:1 slope or the natural stabilized angle of repose of the existing earth materials. QAP also notes that slopes will be stabilized and protected against erosion.

6. The applicant meets criteria for surface extraction in *KMC 14.20.154(a)(6) The site plan does not provide for excavation below the water table except where a reasonable method of drainage is available at the particular site or where the proposed future development plan provides for a lake on the site of the excavation;*

Criteria Met: Extraction will be below the water table and go as deep as 15 to 20 feet. This extraction will result in a lake on the site to eventually be surrounded by residences. The Alaska Department of Environmental Conservation (ADEC) regulates water quality and air

quality. The Alaska Department of Fish and Game (ADF&G) regulates anadromous salmon habitat. QAP references their intent to abide by federal, state, and borough statutes in addition to City of Kenai statutes. City staff recommends this be a condition of the permit and recommended some additional conditions to protect water quality, such as storing construction waste away from water and ensuring no passage of anadromous fish into the lake to be formed by the extraction.

7. The applicant meets criteria for surface extraction in *KMC 14.20.154(a)(7) If the excavation is to be below the water table and the site is likely to endanger the public safety, the site plan shall provide for fencing of the work area;*

Criteria Met: The existing driveway leading to the current excavation would be extended as necessary to reach the new excavation. Access will be from Beaver Loop Road. Gates leading to the site will be locked to deter unwanted access. The proposed berm and fence along Beaver Loop Road will deter accidental casual access into the property. Adjacent properties are mostly other gravel pits or vacant lots.

8. The applicant meets criteria for surface extraction in *KMC 14.20.154(a)(8) The proposed use of land after extraction is completed is feasible and realistic and is a use permitted in the zone in which the property is located;*

Criteria Met: The proposed long-term use of the site is for residential use. This matches the plan of most of the other gravel pits along Beaver Loop Road. QAP also mentions the potential for a campground around the lake. Potential commercial and residential development would be approved and reviewed by the City prior to implementation.

9. The applicant meets criteria for surface extraction in *KMC 14.20.154(a)(9) The extraction does not destroy the land for the purposes for which it is zoned;*

Criteria Met: City staff discussed the importance of ensuring a clean water supply in the City and the applicant will take measures to monitor water levels and be mindful of what is allowed near water and sensitive areas of the landscape. QAP notes equipment and construction debris will not be disposed of in surface water. QAP will seed slopes with plants suitable for Alaska conditions and will limit erosion and dust that could affect the landscape.

10. The applicant meets criteria for surface extraction in *KMC 14.20.154(a)(10) The need for the particular natural resource within the City of Kenai outweighs any detrimental effects the operation may have on surrounding property owners;*

Criteria Met: The applicant will sell some of the gravel for road projects within the City of Kenai. There are very few surrounding property owners and the benefit of a local gravel source from this location outweighs any potential detrimental effects.

11. The applicant meets criteria for surface extraction in *KMC 14.20.154(a)(11) The applicant is the owner of the subject property.*

Criteria Met: The Estate of Mavis Cone submitted a copy of the Agreement to Purchase with QAP. The document states the closing is to be on or before July 31, 2019. City staff recommends a condition of the permit be that documentation of the final sale be submitted before the permit will be issued to the QAP.

12. The applicant meets criteria for surface extraction in *KMC 14.20.154(a)(11) Clearing limits shall be delineated on the site plan as well as clearly visible on site and shall be inspected by the City Planner or designee prior to the application being deemed complete.*

Criteria Met: City staff conducted a site visit on June 28, 2019. Buffers were discussed with the applicant. A six-foot vegetated berm is denoted on the site plan where buffers have already been breached. Existing vegetation will be left in place following buffer requirements where clearing limits have not already been breached.

13. The applicant meets criteria for conditional use permits in *KMC 14.20.150(d)(1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;*

Criteria Met: The property under consideration is within the Rural Residential (RR) Zone. Pursuant to KMC 14.20.080, the intent of the zone is for low density residential development in an attractive residential environment, to prohibit uses which would violate the residential character of the environment or generate heavy traffic in a predominantly residential area, and to separate residential structures in order to prevent health hazards and preserve the rural, open quality of the environment. Surface extraction is a permitted use and can be consistent with the intent of the residential zone. The proposed extraction is adjacent to an existing permitted gravel pit and vacant lots. It would not change the character of the neighborhood. This use is consistent with the purposes and intent of the RR Zone.

14. The applicant meets criteria for conditional use permits in *KMC 14.20.150(d)(2) The value of the adjoining property and neighborhood will not be significantly impaired;*

Criteria Met: Adjacent parcels are mostly parcels used to surface extraction and vacant lots. In order to limit disturbance in the neighborhood, QAP generally work between 7:00am and 10:00pm, except in cases of high demand mostly in summer months. QAP will not use compression release engine brakes (Jake brakes) and may use proximity alarms to reduce noise from backing vehicles.

15. The applicant meets criteria for conditional use permits in *KMC 14.20.150(d)(3) The proposed use is in harmony with the Comprehensive Plan;*

Criteria Met: The 2016 *Imagine Kenai 2030 Comprehensive Plan* notes on p. 74 that, areas off of Beaver Loop Road has been a conditional use to obtain economically advantageous local sources of gravel and fill, but that there is potential for conflict between surface extraction and residential uses. The location of this pit minimizes the potential for conflict with neighbors and fits with the pattern of land use along Beaver Loop Road in the City. The surface extraction will support Goals 2 and 3 for economic development and land use that support the fiscal health of Kenai and implement a forward-looking approach to community growth.

16. The applicant meets criteria for conditional use permits in *KMC 14.20.150(d)(4) Public services and facilities are adequate to serve the proposed use;*

Criteria Met: There is an existing driveway from Beaver Loop Road leading into the parcels. Cone Avenue provides access at the eastern boundary of the parcel. Equipment will be mobile and structure needs will be temporary and serviced with portable toilets.

17. The applicant meets criteria for conditional use permits in *KMC 14.150(d)(5) The proposed use will not be harmful to the public safety, health or welfare;*

Criteria Met: The applicant notes adequate barriers and screening. The extraction will not be a safety concern or visual impairment. The applicants has plans for reclamation and will be careful about materials stored near water and maintaining separation from any anadromous water bodies.

NOW, THEREFORE, BE IT RESOLVED, BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA:

**Section 1.** That a conditional permit for surface extraction is granted to Peninsula Commercial Ventures, LLC.

**Section 2.** That the conditional use permit is subject to the following conditions:

1. Transferee must comply with all federal, State of Alaska, and local regulations.
2. The transferee will properly store fuel oil and hazardous materials away from wetlands or other sensitive areas of the landscape.
3. The transferee will not store fill materials, such as concrete and construction waste, in or near areas with an exposed water table.
4. The transferee will block fish passage between water areas if necessary to avoid violating regulations pertaining to anadromous streams and fish habitat.
5. The transferee will limit noise disturbances and not use compression release engine brakes (Jake brakes).
6. The transferee will ensure the gate that can be used to block access from Beaver Loop Road or any other access point will be kept in working order.
7. A vegetated buffer of a minimum of six foot high will be constructed along Beaver Loop Road.
8. The transferee will not extend the nonconformity of breached buffers and install fences/berms where necessary to remedy visual disturbances. The transferee will conform to current extraction setbacks where possible on the parcels.
9. Transferee shall file an annual report for the Conditional Use Permit as set forth in Kenai Municipal Code 14.20.155.
10. The transferee will meet with City staff for on-site inspections when requested.
11. If there is a change of use for the above described property a new Conditional Use Permit must be obtained, pursuant to 14.20.150(i)(5).

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, this 24th day of JULY, 2019.

\_\_\_\_\_  
JEFF TWAIT, CHAIRPERSON

ATTEST:

\_\_\_\_\_  
JAMIE HEINZ, CMC, CITY CLERK

DRAFT




APPLICATION FOR TRANSFER OF CONDITIONAL USE PERMIT  
KMC 14.20.150(i)(5) & 14.20.158

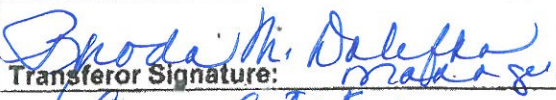
CURRENT CUP HOLDER (TRANSFEROR)	NEW CUP HOLDER (TRANSFeree)
Name: <u>EST OF MAVIS CONE</u>	Name: <u>Colaska, Inc. dba C&amp;H</u>
Mailing Address: <u>PO Box 498</u>	Mailing Address: <u>240 W. 68th Ave</u>
City, State Zip: <u>Seldovia, AK, 99669</u>	City, State Zip: <u>Anchorage, AK 99518</u>
Phone Number: <u>907-262-2910</u>	Phone Number: <u>907-522-2211</u>
Fax Number:	Fax Number: <u>907-344-7723</u>
Email:	Email: <u>tpolter@colaska.com</u>

PROPERTY INFORMATION FOR EXISTING CONDITIONAL USE PERMIT
Property Tax ID #: <u>04911029 - 030 - 031 - 036 - 037</u>
Current CUP Resolution #:
Site Street Address: <u>2817 Beaver Loop Rd, Kenai</u>
Current Legal Description: <u>see attached</u>
Zoning: <u>H</u>
Acreage:
PROPERTY INFORMATION FOR PROPOSED CONDITIONAL USE PERMIT - IF DIFFERENT
Property Tax ID #:
Site Street Address:
Current Legal Description:
Zoning:
Acreage: <u>029 - 11.64    030 - 8.2    031 - 25.16    036 - 5    037 - 10</u>

CERTIFICATION OF TRANSFeree: I hereby certify that I am the property owner (transferee), or have been authorized to act on behalf of the property owner, and hereby apply for a transfer of Conditional Use Permit PZ 75-54. I agree to operate under the terms and conditions of the original Conditional Use Permit and application. I understand site visits may be required to process this application for purpose of confirming compliance with conditional use permit conditions.

Date: 7/2/19      Transferee Signature: 

ACKNOWLEDGEMENT OF TRANSFEROR: I hereby acknowledge that Colaska Inc (name of Transferee) has applied for a transfer of Conditional Use Permit PZ 75-54, and consent to the transfer.

Date: July 3, 2019      Transferor Signature:   
Cone Estate  
Cone Enterprises LLC





240 West 68<sup>th</sup> Avenue, Anchorage, Alaska 99518  
Telephone (907) 522-2211 Fax (907) 344-5798

July 2<sup>nd</sup>, 2019

Planning Department  
City of Kenai  
Attn: Elizabeth Appleby, City Planner  
210 Fidalgo Avenue  
Kenai, Alaska 99611

RE: Application for Transfer of Prior Existing Use Permit

To whom it may concern:

Please find attached the application for transfer of prior existing use for the five parcels located within the City of Kenai. Parcels 04911029, 04904036, 04904037, 04911030, 04911031 all located in T5N, T11W, Section 2 & 11, Seward Meridian.

Subject only to approval of the Application for Transfer submitted herewith, Colaska Inc., dba QAP will thereafter immediately Close on the purchase of the above referenced parcels with intention of use for operation of extrraction of natural resources. These sand & gravel resources would be used to provide suitable products for various heavy civil projects with in the City of Kenai and Kenai Borough.

If you have any further question please feel free to contact me at (907) 522-2211 or [pcummins@colaska.com](mailto:pcummins@colaska.com).

Sincerely,

Patrick S. Cummins  
Senior Production Engineer





240 West 68<sup>th</sup> Avenue, Anchorage, Alaska 99518  
Telephone (907) 522-2211 Fax (907) 344-5798

**Cone Pit  
Sand & Gravel Mining Plan of Operations**

Location: T5N, T11W, Section 2 & 11, Seward Meridian  
Operator: Colaska Inc., dba QAP  
Parcels: 04911029, 04904036, 04904037, 04911030, and 04911031

The following information is an attachment to the QAP application for transfer of prior existing use permit for extraction of natural resources in the City of Kenai.

---

**1. Description of Activities**

**1.1 Sand and Gravel Extraction**

An estimated 600,000 cubic yards (1 million tons) of material, not including overburden, will be extracted from the referenced parcels. The schedule of extraction will be determined by the material requirements of current and future projects. These needs could be as much as 300,000 tons or more per year or as little as a couple of hundred tons.

The site, including all slopes will be graded and maintained to prevent blowing dust, erosion from wind and surface water. Surface water and ground water including storm water and waste water will be managed to prevent sediment transport, erosion and flooding off the site. A water truck and/or sweepers may be utilized for dust control and off-site tracking as needed.

Extraction will be accomplished, but not limited to, dozers, wheeled loaders and/or excavators with support from on and off-road haul units. The operations will be an incremental mining and reclamation procedure where the mined portions of the site will be reclaimed as necessary.

It is planned to extract materials from below the water table. Only properly serviced equipment would be used in the extraction of materials in water. Equipment would be stored and serviced in a staging area away from and protecting any water sources. No construction debris such as concrete or asphalt materials will be disposed of in subsurface water. Subsurface excavations will be protected from accidental entry by, but not limited to, berms,

fencing, and sloping. Mining depths will vary with the useable aggregates veins and geology of the properties. Mining could be as deep as 15 to 20 feet below the water table.

Operations to be conducted on the site will include clearing, overburden stripping, gravel extraction, and including material processing (crushing, screening), manufacturing of asphalt pavements, concrete and backfilling of select areas. These operations are permitted and regulated through the Alaska Department of Environmental Conservation (ADEC), Air Quality Program. All operations on these properties will abide by all federal, state, borough, and city laws. The plants adhere to permitted setbacks from occupied structures. These permits also regulate our potential emissions of dust and other potential air quality pollutants through a stringent monitoring and reporting program through the ADEC. The mining operations are also regulated by the Mine Safety and Health Act. All of the operations on these properties will adhere to the standards set forth by MSHA. This includes, but not limited to, maintaining safe slopes in mining areas, and strict protections for our employees and the public.

### **1.2 Hours of Operation**

Heavy civil contracts are of a seasonal nature. Generally work is performed between March and October but can extend into winter months as needed per market demands. Work generally takes place between 7:00 am and 10:00 pm. However, some contracts mandate night work in the contract for the benefit of the public.

### **1.3 Noise Mitigation**

Measures will be taken to minimize noise levels at the property boundaries. The natural vegetation on and bordering the site will be utilized to aid in noise deterrence. In areas where existing vegetation does not have adequate noise deterrence additional earthen berms may be constructed as a noise barrier. In addition equipment used in mining may have proximity alarms installed to reduce and eliminate noise from backup safety alarms.

### **1.4 Soil Surveys**

Colaska Inc., dba QAP has conducted soil surveys of the properties. Several test holes were excavated with an excavator and samples of aggregates were taken for gradation analysis to ensure the aggregates will be suitable for heavy civil contracts. At each test hole the water table was recorded. Low lying previously mined areas were approximately 5 feet above the current water table. Other areas to be mined were approximately 15 feet above the current water table.

### **1.5 Site Preparation**

Prior to mining, each face will need to be stripped of organics and surface soils. Overburden will be stored on non-expandable slopes and used as need for reclamation.

### **1.6 Visual Screen Measures**

The natural vegetation on and bordering the site will be utilized around the active extraction area to aid in visual screening. In areas where existing vegetation does not provide adequate visual screening and does not meet the minimum buffer requirements an earthen berm will be constructed from overburden to provide visual screening for the site. In addition a fence will be constructed at the main entrance to the property where the vegetative buffer has been breached by previous operators. Please see the attached site plan for locations and types of visual screening and buffer zones.

#### **1.7 Road and Access Plan**

The access in and out of the properties are directly onto Beaver Loop Road. It is anticipated that all material leaving the site will be by truck. Vehicle traffic will consist of employee and subcontractor vehicles and haul trucks. When the site is not in active use gates will be locked and sufficient to deter unwanted access. The area will be routinely inspected for areas of unwanted access. These areas may be barricaded with, but not limited to, berms, fences, gates, and barriers.

#### **1.8 Structures**

The structure needs required at the site will be temporary in nature. The equipment will be mobile and will be removed at completion. It is anticipated small trailers may be used for a scale house or temporary project offices. The septic requirements will be accomplished with serviced portable toilets.

#### **1.9 Reclamation Plan**

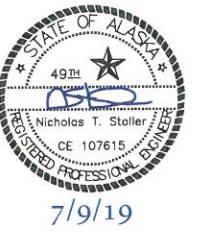
Overburden that is encountered during mining will be stockpiled on non-expandable slopes and used for reclamation. Slopes shall be graded to a maximum 2:1 slope or the natural stabilized angle of repose of the existing earth materials. All surfaces shall be stabilized and protected against erosion. A vegetative cover will be established over all disturbed slopes. Slopes will be reseeded using seed suitable for Alaska conditions.

There are no current redevelopment plans the properties after mining is completed. However, possibilities include but are not limited to a campground around the residual lake, or the property could be subdivided for residential properties featuring the residual lake.

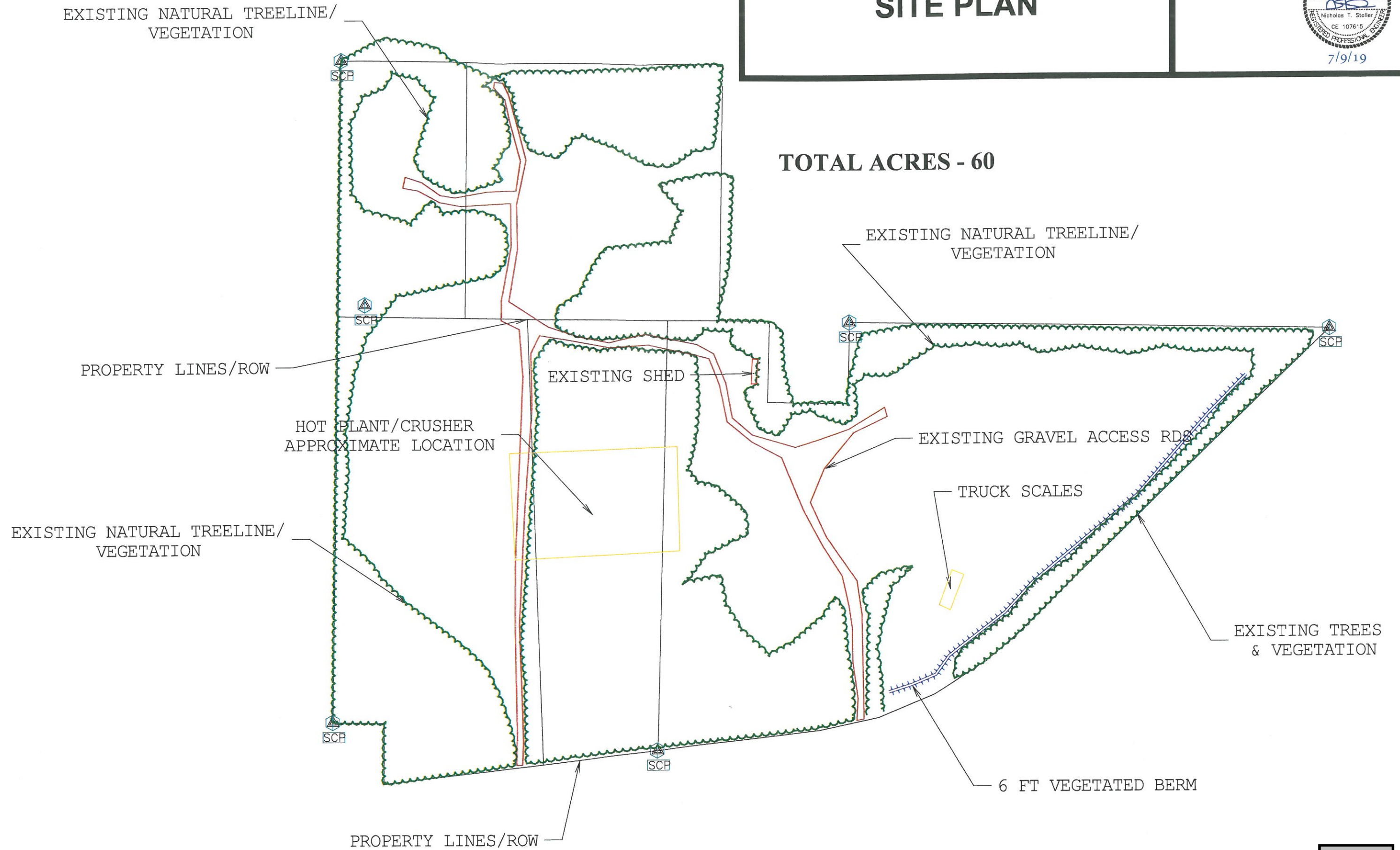
2. Site Plan

# MATERIAL EXTRACTION SITE PLAN

DRAWN BY: BG  
REVIEWED BY: NS



TOTAL ACRES - 60



225 ft

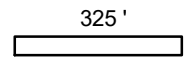


## PZ2019-26 Map

### LEGEND



Parcels permitted by PZ75-54 that would be transferred with PZ2019-26



1 inch equals 375 feet

The information depicted is for graphic representation only of the best available sources.

The City of Kenai assumes no responsibility for errors on this map.



## Kenai City Council - Regular Meeting

July 03, 2019 – 6:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

[www.kenai.city](http://www.kenai.city)

### **ACTION AGENDA**

#### **A. CALL TO ORDER**

1. Pledge of Allegiance
2. Roll Call
3. Agenda Approval
4. Consent Agenda (*Public comment limited to three (3) minutes) per speaker; thirty (30) minutes aggregated*)

\*All items listed with an asterisk (\*) are considered to be routine and non-controversial by the council and will be approved by one motion. There will be no separate discussion of these items unless a council member so requests, in which case the item will be removed from the consent agenda and considered in its normal sequence on the agenda as part of the General Orders.

#### **B. SCHEDULED PUBLIC COMMENTS**

*(Public comment limited to ten (10) minutes per speaker)*

#### **C. UNSCHEDULED PUBLIC COMMENTS**

*(Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated)*

#### **D. PUBLIC HEARINGS**

1. **ADOPTED UNANIMOUSLY AS AMENDED. Resolution No. 2019-45** - Authorizing a Facility Management Agreement with the Kenai Chamber of Commerce and Visitor Center, Inc., for the Operation and Management of the Kenai Visitor and Cultural Center. (Administration) [*Clerk's Note: Council May Convene in Executive Session to Discuss this Agenda Item, a Matter of which the Immediate Knowledge may have an Adverse Effect Upon the Finances of the City (AS44.62.310(c)(1))*]
2. **ADOPTED UNANIMOUSLY. Resolution No. 2019-46** - Selecting Divining Point, LLC, for City of Kenai Tourism and Marketing Services. (Administration)
3. **FAILED. Resolution No. 2019-47** - Providing For The Submission To The Qualified Voters Of The City Of Kenai, At The Regular Election Of October 1, 2019, The Question Of Amending Article 10, Elections, Of The Charter Of The City Of Kenai



To Provide Designated Seats For Each Council Position And Allow Qualified Voters To Vote In An Election For A Candidate For Each Seat. (Council Member Knackstedt and Vice Mayor Navarre)

4. **ADOPTED. Resolution No. 2019-48** - Providing For The Submission To The Qualified Voters Of The City Of Kenai, At The Regular Election Of October 1, 2019, The Question Of Amending Section 10-3 Filing, To Remove The Requirement That Candidates For Mayor And Council Provide A Petition Signed By Twenty Or More Registered Voters. (Council Member Knackstedt and Vice Mayor Navarre)
5. **ADOPTED UNANIMOUSLY. Resolution No. 2019-49** - Providing For The Submission To The Qualified Voters Of The City Of Kenai, At The Regular Election Of October 1, 2019, The Question Of Amending Section 10-2 Three-Year Terms – Election At Large – Nonpartisan Elections, To Provide That The Terms Of Office Of The Mayor And Other Councilmembers Shall Begin The Monday Following Certification Of The Election. (Vice Mayor Navarre)
6. **ADOPTED UNANIMOUSLY. Resolution No. 2019-50** - Awarding an Agreement for the Purchase of Security Cameras and Software for the Public Safety Building Security Camera Project. (Administration)
7. **ADOPTED UNANIMOUSLY. Resolution No. 2019-51** - Awarding an Agreement to Furnish and Deliver Chemicals for the Wastewater Treatment Plant and Water Treatment Facility. (Administration)
8. **ADOPTED UNANIMOUSLY. Resolution No. 2019-52** - Amending its Comprehensive Schedule of Rates, Charges, and Fees, to Eliminate the Ambulance Fee for Patient Treatment without Transport. (Administration)
9. **ADOPTED UNANIMOUSLY. Resolution No. 2019-53** - Authorizing the City Manager to Enter into a One-Year Agreement with the City of Soldotna to Provide Animal Shelter Services for the City of Soldotna at the Kenai Animal Shelter. (Administration)

**E. MINUTES**

1. **APPROVED BY THE CONSENT AGENDA.** \*Work Session Summary of June 11, 2019
2. **APPROVED BY THE CONSENT AGENDA.** \*Regular Meeting Minutes of June 19, 2019

**F. UNFINISHED BUSINESS**

**G. NEW BUSINESS**

1. **APPROVED BY THE CONSENT AGENDA.** \*Action/Approval - Bills to be Ratified (Administration)

2. **REMOVED FROM THE AGENDA. \*Action/Approval** - Purchase Orders Over \$15,000 (Administration)
3. **APPROVED UNANIMOUSLY AS PROVIDED IN THE LAYDOWN. Action/Approval** - Approving a Special Use Permit of the Use of the City Dock Crane. (Administration)
4. **DIRECTED THE CITY MANAGER TO BRING BACK AS RESOLUTIONS. Action/Approval** - Delineate Management Authority for Two Properties in the Baron Park Subdivision. (Administration)
5. **TEEA WINGER APPOINTED UNANIMOUSLY. Action/Approval** - Confirmation of Mayoral Nomination to the Parks and Recreation Commission. (Mayor Gabriel)
6. **MANAGER'S MEMO WAS CONCURRED WITH. Discussion** - City Parks Hours of Operations for the Protection of City Property, City Resources, and Residential Neighborhoods. (Administration)

**H. COMMISSION / COMMITTEE REPORTS**

1. Council on Aging
2. Airport Commission
3. Harbor Commission
4. Parks and Recreation Commission
5. Planning and Zoning Commission
6. Beautification Committee
7. Mini-Grant Steering Committee

**I. REPORT OF THE MAYOR**

**J. ADMINISTRATION REPORTS**

1. City Manager
2. City Attorney
3. City Clerk

**K. ADDITIONAL PUBLIC COMMENT**

1. Citizens Comments (*Public comment limited to five (5) minutes per speaker*)
2. Council Comments

**L. EXECUTIVE SESSION - See item D.1.**

**M. PENDING ITEMS**

**N. ADJOURNMENT**

**O. INFORMATION ITEMS**

1. Purchase Orders between \$2,500 and \$15,000 for Council Review
2. Kenai Watershed Forum Thank you Letter

*The agenda and supporting documents are posted on the City's website at [www.kenai.city](http://www.kenai.city). Copies of resolutions and ordinances are available at the City Clerk's Office or outside the Council Chamber prior to the meeting. For additional information, please contact the City Clerk's Office at 907-283-8231.*



# Planning Commission Tentative Agenda

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2215 • (907) 714-2378 Fax

Betty J. Glick Assembly Chambers, Kenai Peninsula Borough George A. Navarre Administration Building

Max J. Best, Planning Director • Charlie Pierce, Borough Mayor

*Blair Martin, Chairman – Kalifornsky Beach • Robert Ruffner, Vice Chairman – Kasilof/Clam Gulch  
Dr. Rick Foster, Parliamentarian – Southwest Borough • Syverine Abrahamson-Bentz – Anchor Point/Ninilchik  
Jeremy Brantley – Sterling • Paulette Bokenko-Carluccio – City of Seldovia • Cindy Ecklund – City of Seward  
Robert F. Ernst – Northwest Borough • Diane Fikes – City of Kenai • Virginia Morgan – East Peninsula  
Franco Venuti – City of Homer • Paul Whitney – City of Soldotna*

**July 15, 2019**

**7:30 p.m.**

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. APPROVAL OF CONSENT AND REGULAR AGENDA**

All items marked with an asterisk (\*) are consent agenda items. Consent agenda items are considered routine and non-controversial by the Planning Commission and will be approved by one motion. There will be no separate discussion of consent agenda items unless a Planning Commissioner so requests in which case the item will be removed from the consent agenda and considered in its normal sequence on the regular agenda.

If you wish to comment on a consent agenda item or a regular agenda item other than a public hearing, please advise the recording secretary before the meeting begins, and she will inform the Chairman of your wish to comment.

**\*1. Time Extension Request**

- a. Kee's Tern Subdivision  
KPB File 2013-023 [Segesser / Martin]  
Location: City of Kenai

**\*2. Planning Commission Resolutions - None**

**\*3. Plats Granted Administrative Approval**

**\*4. Plats Granted Final Approval (20.10.070) - None**

**\*5. Plat Amendment Request - None**

**\*6. Utility Easement Vacations**

- a. Vacate a utility easement in the Ridgeway area. Location: Vacate the 15-foot-wide natural gas easement on Lot C2 Aggregate Subdivision Alaska Auto Country Addition No. Two (Plat KN 2007-27); within Section 29, Township 5 North, Range 10 West, Seward Meridian, Kenai Peninsula Borough, Alaska. KPB File 2019-060V. Petitioner: North Star Paving & Construction, Inc. of Soldotna, AK.

**\*7. Commissioner Excused Absences**

- a. Vacant, Ridgeway

**\*8. Minutes**

- a. June 24, 2019 Planning Commission Minutes

**D. PUBLIC COMMENT/PRESENTATIONS/COMMISSIONERS**

(Items other than those appearing on the agenda or scheduled for public hearing. Limited to five minutes per speaker unless previous arrangements are made.)

**E. UNFINISHED BUSINESS**

**F. PUBLIC HEARINGS**

1. Resolution SN 19-02; A Street Naming Resolution to Rename Certain Public Rights-of-Way in the Kalifornsky area. Location: Chimera Court is a public right-of-way named by plat KN 2018-91; within Section 25, Township 5 North, Range 11 West, Seward Meridian, Kenai Peninsula Borough, Alaska; within Emergency Service Number (ESN) 302.  
Petitioner(s): James Delker, of Soldotna, Alaska
2. PC Resolution 2019-20; A Resolution for a Conditional Land Use Permit for Material Extraction on a Parcel in the Sterling Area. Applicant / Landowner: Terry L. Smith; Parcel Number: 063-020-23; Legal Description: Tract A, Halliburton Subdivision, according to Plat 94-68, Kenai Recording District; Location: 37170 Sterling Hwy; Proposed Land Use: The applicant wishes to obtain a permit for sand and gravel extraction on a portion of the parcels listed above.

**G. ANADROMOUS WATERS HABITAT PROTECTION DISTRICT (21.18) - None**

**H. VACATIONS NOT REQUIRING A PUBLIC HEARING - None**

**I. SPECIAL CONSIDERATIONS**

**J. SUBDIVISION PLAT PUBLIC HEARINGS**

1. The Plat Committee will review 8 preliminary plat.

**K. OTHER/NEW BUSINESS**

**L. ASSEMBLY COMMENTS**

**M. LEGAL REPRESENTATIVE COMMENTS**

**N. DIRECTOR'S COMMENTS**

**O. COMMISSIONER COMMENTS**

**P. PENDING ITEMS FOR FUTURE ACTION**

1. Ordinance 2019-\_\_; An Ordinance Amending Kenai Peninsula Borough 2.56.006, Adopting the 2019 Kenai Peninsula Borough Comprehensive Plan.

**Q. ADJOURNMENT**

**MISCELLANEOUS INFORMATIONAL ITEMS  
NO ACTION REQUIRED**

**NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING**

The next regularly scheduled Planning Commission meeting will be held **Monday, August 12, 2019** in the Betty J. Glick Assembly Chambers of the Kenai Peninsula Borough George A. Navarre Administration Building, 144 North Binkley St, Soldotna, Alaska at **7:30 p.m.**

**ADVISORY PLANNING COMMISSION MEETINGS**

ADVISORY COMMISSION	MEETING LOCATION	DATE	TIME
Anchor Point	Anchor Point Chamber of Commerce	August 7, 2019	7:00 p.m.
Cooper Landing	Cooper Landing Community Hall	August 7, 2019	6:00 p.m.
Funny River	TBD	TBD	TBD
Moose Pass	Moose Pass Community Hall	TBD	6:30 p.m.
Hope / Sunrise	Hope Social Hall	TBD	6:00 p.m.
The Kachemak Bay Advisory Planning Commission is inactive at this time.			

**NOTE:** Advisory planning commission meetings are subject to change. Please verify the meeting date, location, and time with the advisory planning commission chairperson. Chairperson contact information is on each advisory planning commission website, which is linked to the Planning Department website.

**CONTACT INFORMATION**

**KENAI PENINSULA BOROUGH PLANNING DEPARTMENT**

Phone: 907-714-2215

Phone: toll free within the Borough 1-800-478-4441, extension 2215

Fax: 907-714-2378

e-mail address: [planning@kpb.us](mailto:planning@kpb.us)

website: <http://www.kpb.us/planning-dept/planning-home>



# Planning Commission Work Session Tentative Agenda

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2215 • (907) 714-2378 Fax

Betty J. Glick Assembly Chambers, Kenai Peninsula Borough George A. Navarre Administration Building

Max J. Best, Planning Director • Charlie Pierce, Borough Mayor

*Blair Martin, Chairman – Kalifornsky Beach • Robert Ruffner, Vice Chairman – Kasilof/Clam Gulch  
Dr. Rick Foster, Parliamentarian – Southwest Borough • Syverine Abrahamson-Bentz – Anchor Point/Ninilchik  
Jeremy Brantley – Sterling • Paulette Bokenko-Carluccio – City of Seldovia • Cindy Ecklund – City of Seward  
Robert F. Ernst – Northwest Borough • Diane Fikes – City of Kenai • Virginia Morgan – East Peninsula  
Franco Venuti – City of Homer • Paul Whitney – City of Soldotna*

**July 15, 2019  
4:00 p.m.**

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. STAFF OVERVIEW**

1. Ordinance 2019-\_\_; An Ordinance Amending KPB Chapter 21.25, Conditional Land Use Permits and Amending KPB Chapter 21.29, Material Site Permits.

**D. DISCUSSION**

**E. PLANNING COMMISSION & ASSEMBLY SCHEDULE**

**F. ADJOURNMENT**

**CONTACT INFORMATION**

**KENAI PENINSULA BOROUGH PLANNING DEPARTMENT**

Phone: 907-714-2215

Phone: toll free within the Borough 1-800-478-4441, extension 2215

Fax: 907-714-2378

e-mail address: [planning@kpb.us](mailto:planning@kpb.us)

website: <http://www.kpb.us/planning-dept/planning-home>



# Plat Committee Tentative Agenda

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Betty J. Glick Assembly Chambers, Kenai Peninsula Borough George A. Navarre Administration Building

*Paulette Bokenko-Carluccio – City of Seldovia • Jeremy Brantley – Sterling  
Cindy Ecklund – City of Seward • Franco Venuti – City of Homer • Paul Whitney – City of Soldotna  
Alternates: Diane Fikes – City of Kenai*

**July 15, 2019  
6:00 p.m.**

**A. CALL TO ORDER**

**B. ROLL CALL**

1. Election of Officers

**C. APPROVAL OF AGENDA, EXCUSED ABSENCES, AND MINUTES**

1. Agenda
2. Member/Alternate Excused Absences
3. Minutes
  - a. June 24, 2019 Plat Committee Minutes

**D. PUBLIC COMMENT**

(Items other than those appearing on the agenda or not scheduled for public hearing. Limited to five minutes per speaker unless previous arrangements are made.)

**E. SUBDIVISION PLAT PUBLIC HEARINGS**

1. Baringer Subdivision  
KPB File 2019-071 [Fineline Surveys, Inc / Baringer]  
Location: on North Fork Road and Incline Street; Anchor Point  
Anchor Point APC
2. Northern Enterprises No. 3  
KPB File 2019-075 [Ability Surveys / Northern Enterprises Boat Yard, Inc., Kenneth and Roseleen Moore Alaska Community Property Trust]  
Location: on Kachemak Drive; City of Homer
3. Alaska State Land Survey No. 2018-28 Rolling Hills Hideaway Subdivision  
KPB File 2019-076; [Mullikin Surveys / State of Alaska]  
Location: on the Old Sterling Highway; Anchor Point  
Anchor Point APC
4. Alaska State Land Survey No. 2018-29 Old Sterling Highway North Subdivision  
KPB File 2019-077 [Mullikin Surveys / State of Alaska]



- Location: on the Old Sterling Highway; Anchor Point  
Anchor Point APC
5. Gruening Vista 2019 Replat  
KPB File 2019-063 [McLane Consulting Group / Spotty Merle LLC]  
Location: on Dorothy Drive, off Skyline Drive; Diamond Ridge  
Kachemak Bay APC
  6. Singing Meadows Webber Addition  
KPB File 2019-072 [Segesser Surveys / Webber]  
Location: on E Redoubt Avenue and N Lark Street; City of Soldotna
  7. Lost Lake Subdivision No. 7 2019 Replat  
KPB File 2019-074 [Segesser Surveys / Rough]  
Location: on Hayden Berlin Road and Heather Lee Lane; Bear Creek
  8. Ten-Mar Ranch 2019 Replat  
KPB File 2019-073 [Johnson Surveying / Hinds]  
Location: on Country Woods Circle and Clear Haven Circle; Sterling

**F. FINAL SUBDIVISION PLAT PUBLIC HEARING - None**

**G. OTHER / NEW BUSINESS**

**H. MISCELLANEOUS INFORMATION – NO ACTION REQUIRED**

**I. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED MEETING**

The next regularly scheduled Plat Committee meeting will be held **Monday, August 12, 2019** in the Betty J. Glick Assembly Chambers of the Kenai Peninsula Borough George A. Navarre Administration Building, 144 North Binkley, Soldotna, Alaska at **5:30 p.m.**

**PLANNING DEPARTMENT**

Phone: 907-714-2215 Fax: 907-714-2378

Phone: toll free within the Borough 1-800-478-4441, extension 2215

e-mail address: [planning@kpb.us](mailto:planning@kpb.us)

web site: <http://www.kpb.us/planning-dept/planning-home>

# Planning and Zoning Resolutions - Second Quarter 2019

Amend CUP	201923	Amend Conditional Use Permit PZ18-16	6/26/2019	Approved
Amend KMC 14.20.320 -330	201916	Prohibiting Onsite Consumption of Marijuana	5/22/2019	Approved
Amend KMC 14.20.330	201913	KMC 14.20.320 Definitions; 14.20.330 Standards and 14.22.010 Land Use T able	4/24/2019	Approved
Conditional Use Permit	201917	Surface Extraction of Natural Resources	6/12/2019	Approved
Home Occupation Permit	201922	Daycare	6/26/2019	Approved
Landscape/Site Plan	201915	U-haul storage and rental facility	6/27/2019	Approved
Landscape/Site Plan	201914	Convert apartments into office space	5/7/2019	Approved
Landscape/Site Plan	201908	Four Family Dwelling Unit (4-plex)	4/3/2019	Approved
Landscape/Site Plan	201905	Fun Center	4/16/2019	Approved
Landscape/Site Plan	201821	L9A, Alyeske Subd. 2018 Replat	4/16/2019	Approved
Transfer Conditional Use Permit	201919	Hotel, Guide Service and Boart Parking	6/12/2019	Approved
Transfer Conditional Use Permit	201918	Hotel (Short Term Rentals)	6/12/2019	Approved
Transfer Conditional Use Permit	201912	Operation of Gravel Pit for Extraction of Natural Resources	4/24/2019	Approved

## ***CITY OF KENAI BUILDING PERMITS - SECOND QUARTER 2019***

<i>Permit #:</i>	<i>Date</i>	<i>Parcel #</i>	<i>Owner</i>	<i>Address</i>	<i>Legal Description</i>	<i>Comments</i>	<i>Valuation</i>	<i>R/C</i>
B5444	4/8/2019		Wal-Mart	10096 Kenai Spur Highway	Subdivision Baron Park	Remove & add electric fixture & add power to new fixtures	\$50,000	C
B5446	4/22/2019		Grizzly Fish Family Trust	230 Iowa Street	L13 B5 Thompson Park Sub	Put Existing Structure on a new foundation - new Elec. & Plumbing	\$6,000	R
B5447	4/23/2019		RPM's LLC	14096 Kenai Spur Hwy	L22A B13	626 Addition	\$30,000	R
B5449	5/7/2019		Wade Morgan	211 Birch St.	L 2 and 3, R I Morgan Subd.	200 sq. ft addition	\$25,000	R
B5450	5/13/2019		Kenaitze Indian Tribe	1001 Mission Ave.	L1, Toyon Subd.	Convert 4000# Apt. space to office space	\$300,000	C
B5451	5/14/2019		Augie F. Alto and Mae A. Batt	117 Harbor Ave.	L9, B4, Central Heights Subd.	Partial rebuild of SFD, Fire Damage	\$164,000	R
B5452	5/20/2019		Matthew Brott	1516 Toyon Way	L51, B4, Redoubt Terrace Subd. Addn. 3	Rework interior stairs and add gas fireplace	\$10,000	R
B5453	6/13/2019		Nicholas & Shea Barnes	610 Dolchok Lane	L1, B2, Basin View Subd. Part 3	#1392 SFD	\$170,000	R
B5454	6/17/2019		Greg & Terry Davis	785 Ames Road	Jack Webb Subd.	#1280 Detached Garage	\$70,658	R
B5455	6/25/2019		Carol Freas	609 Maple Drive	L5BJ Woodland Sub Part 1	Kitchen Remodel	\$30,000	R



*"Village with a Past, City with a Future"*

210 Fidalgo Ave, Kenai, Alaska 99611-7794  
 Telephone: (907) 283-7535 | Fax: (907) 283-3014  
 www.kenai.city

## MEMORANDUM

**TO:** Planning & Zoning Commission  
**THROUGH:** Elizabeth Appleby, City Planner  
**FROM:** Wilma Anderson, Planning Assistant  
**DATE:** July 24, 2019

**SUBJECT:** Code Enforcement Action

### 2019 Second Quarter Report

Planning & Zoning currently has nine active code cases:

Junk Vehicles	3
Junk Vehicles and Debris & Junk	3
Debris & Junk	0
Garbage	0
Building Code Violation	2
Miscellaneous Code Violation	0
Cases transferred to Legal Department/Civil Penalties being assessed.	0
<b>TOTALS:</b>	<b>8</b>

Code Enforcement Action during the months of April. – June, 2019:

Closed Cases	8
Opened Cases	7